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Survey mankind from China to Peru.
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ANNUAL REPORT.

THE upward trend in the Society's affairs shown in 1937 was satisfactorily maintained in 1938. The membership roll was increased by twenty-nine members, although the losses, mainly due to Sino-Japanese hostilities, reduced the effect of this increase. The Society is in the happy position of not having lost a single member through death in 1938.

A further response from the Colonies not possessing responsible government to the dispatch of H.M. Secretary of State was most welcome. Increases in subscriptions were made by the Governments of the Gold Coast and Northern Rhodesia, while the Government of Trinidad renewed their subscription which had been allowed to lapse. Apart from the subscriptions, the Governments of Mauritius and Trinidad generously made grants to the Society's work of £5 5*s*. and £5 respectively, and the Government of Fiji renewed its grant and at the same time increased it to £10. Such grants, along with those from the Inns of Court, from the Northern Ireland Inn of Court and from the Canadian Bar Association, form a solid basis of support for the Society's work for which the Committee are most grateful.

The Society's revenue for the year was enhanced by the increased sales of back numbers of the *Journal*. A complete set of the *Journal* was supplied to the Riksdag in Stockholm, which has now become a member. This, however, is a fluctuating item and cannot take the place of subscriptions which are the main pillar of the Society's finance. An extension of membership is still the Society's primary aim, and, provided that there is a measure of stability in international affairs, this aim should not be incapable of realization.

The total increase in revenue was nearly £87 over that of the previous year. Expenditure, however, also showed an increase due to the rise in the cost of both printing and paper foreshadowed in our previous report.

As so many years have elapsed since the publication of an Index, the mass of useful material contained in the *Journal* is now in danger of being overlooked. During the year an Index to the last three volumes of the New Series of the *Journal* has been compiled, and arrangements are now being made for it to be presented to all members possessing these volumes. An Index to the twenty volumes of the Third Series has also been compiled, and members will be invited to subscribe for it. It is to be hoped that this valuable work will have the support of the members of the Society, as the Committee rely upon their co-operation in order to meet the additional expenditure. As the series of publications issued by the Society lengthen, the range of material contained in them increases and can be rendered accessible only by a consolidated Index as a ready means of reference. At the same time the Index will be useful to new members of the Society who only possess recent volumes. The main-

tenance of the Society's standard of varied learning affords the best assurance that its work continues upon the lines laid down by its founders and should justify the hope of the Committee for an increase in its membership. For the realization of this hope the Committee are dependent upon the members of the Society, who are invited to use their influence in introducing new members so that the Society may extend its range, especially throughout the British Empire and the United States.

MACMILLAN, *Chairman.*

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1938. *Cr.*

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Subscriptions:			By Publication of *Journal*:		
General	441 0 0		Printing vol. xix, pt. 4	155 13 6	
Government	175 7 0		Printing vol. xx, pt. 1	147 5 6	
		616 7 0	Printing vol. xx, pt. 2	120 9 5	
,, Grants:			Printing vol. xx, pt. 3	102 4 6	
Middle Temple	52 10 0			525 12 11	
Gray's Inn	52 10 0		*Add* Cost of Paper	38 7 10	
Inner Temple	21 0 0				564 0 9
Lincoln's Inn	21 0 0		,, Salary of Secretary		250 0 0
Law Society	21 0 0		,, Rent of Chambers	100 0 0	
Canadian Bar Association	10 6 2		*Less* Rent received	40 0 0	
Northern Ireland Inn of Court	5 5 0				60 0 0
Government of Fiji	10 0 0		,, Lighting, Heating and Maintenance of Chambers		21 12 8
Government of Mauritius	5 5 0		,, General Expenses:		
Government of Trinidad	5 0 0		Purchase of Carpet	13 10 0	
		203 16 2	Sundries, including postage and insurance	22 5 5	
,, Sale of *Journals*	98 4 6				35 15 5
Less Cost of Back Numbers, Reprints, etc.	6 16 0		,, Telephone		7 12 7
		91 8 6	,, Stationery		2 16 2
,, Proceeds of Advertisements		10 10 0	,, Audit of Accounts		3 3 0
,, Sale of *Great Jurists of the World*		1 6 8			945 0 7
,, Interest on War Loan—					
Year to December 1, 1938, less Tax		5 1 6			
		928 9 10			
,, Cash at January 1, 1938:					
In hand	3 1 4		,, Cash at December 31, 1938:		
At bank	121 2 2		In hand	3 13 4	
		124 3 6	At bank	174 6 5	
,, Subscriptions in arrear paid during 1938		11 11 0			177 19 9
,, Subscriptions in advance paid during 1938		58 16 0			
		£1,123 0 4			£1,123 0 4

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance and also the investment of £200 3½% War Bonds.

LONDON: 48, Copthall Avenue, E.C.2.
February 14, 1939.

CASH, STONE & CO.
Chartered Accountants

INTRODUCTION.

[*Contributed by* F. M. GOADBY, Esq., D.C.L.]

WHEN writing last year the Introduction to our Review of Legislation for 1936 I lamented the continued presence of a few gaps in its completeness. This year we have advanced nearer to our ultimate aim, which is to provide for our members a review of the legislation of the year, including every territory under the British flag—metropolis, dominion, colony, protectorate and mandated area. The elusive Falkland Islands, St. Helena and long absent British Honduras have, through the kindness of correspondents, once again taken their allotted place and filled up the regretted gap which yawned among the South Atlantic colonies, and we are glad to be able now to include Somaliland and Aden, the latter, of course, for the first time. A few territories in Australasia, *e.g.* New Guinea (as distinguished from Papua) and Norfolk Island, have not yet been brought within our net and, unfortunately, the review of legislation in New Brunswick went astray and has not been recovered in time for inclusion. This latter is the only omission which is likely to inconvenience our readers, and this will, we hope, be repaired next year. In the meantime we are happy to have so nearly reached perfection, and the achievement is all the more noteworthy in view of the increased difficulties met with in securing the Indian reviews. Correspondence is now requisite with each Province separately under the new Constitution, and this has added considerably to the labours of the Secretary. That these difficulties have been overcome and our British Indian review been maintained entire is the result of her industry and of the kind co-operation of many friends in India. The fact that it is possible for a private institution such as ours to accomplish so much is a measure of the appreciation with which we are favoured.

Constitutional Law.—The Parliamentary Session November 1936–October 1937 was of course notable in British constitutional history by reason of the abdication of His late Majesty Edward VIII. The legislation to which this gave rise is noted by Dr. Carr (p. 2). Its repercussions in Canada (p. 34) and South Africa (p. 95) are duly noted by our correspondents and the subject has been discussed by Professor Berriedale Keith in our columns.[1]

Apart from this event, the most remarkable incident in constitutional development in the Empire was the adoption by Eire of a new Constitution approved by a plebiscite. Of this a fairly full account is given by Mr. Denis Pringle (pp. 27–31). Some of the provisions are only explicable by reference to Irish history and sentiment and might otherwise be regarded as provocative. It is, however, refreshing to note that by Art. 29 Ireland affirms " its devotion to the ideal of peace and friendly

[1] *Journ. Comp. Leg.*, 3rd Series, vol. xix, pt. i, pp. 105–6.

co-operation amongst nations founded on international justice and morality." The Constitution appears to contain a number of general propositions and guarantees of an idealistic character which will command the sympathy of many. It seems odd, perhaps, for a Constitution to declare state recognition of the value of woman's life in the home. However, this is the day of propaganda, and the use of a Constitution as a means of preaching moral and social doctrine is, at least, a less objectionable form of advertisement than many which are rampant.

During the year under review the new Burmese Constitution came into operation, and its general character is sketched by our correspondent, Mr. McG. Elliot (pp. 128–9). Otherwise no important constitutional legislation appears to have been enacted. South Australia adopted a quinquennial period for her House of Assembly (p. 73), and in the United Kingdom " regency became a permanent part of our constitutional machinery " (p. 2). The most remarkable feature of the Ministers of the Crown Act is the grant to the Leader of the Opposition of a salary chargeable on the Consolidated Fund (p. 3). It is satisfactory to note that it cannot be reduced by vote of the House (s. 8) ; otherwise the dominant party might move its reduction if the Leader of the Opposition was not doing his duty by opposing with adequate passion and acerbity. Ministerial salaries were also much to the fore in Indian provincial legislation under s. 51 of the Government of India Act, 1935. In Victoria an Act of 1937 (proclaimed, however, in 1938, as it had been reserved for the Royal Assent) has provided a new method of settling disputes between the Houses (pp. 80–1). It is rash to judge the precise effect of measures of this sort, but one may perhaps surmise that the fear of the consequences is not unlikely to check the emergence of disputes. The Amending Letters Patent issued in respect of Southern Rhodesia with the consequent local constitutional amendment are noted on pp. 113–14, where the Native Councils Act and Native Law and Courts Act are also summarized. It appears that unauthorized tribal courts have long been functioning in the territory and that the establishment of native civil courts deciding in accordance with native custom is therefore not entirely an innovation (p. 115). It is worth remarking that the principle of indirect rule advanced a stage further also in Sierra Leone, though there again " the measure merely formulates long-existing practice under native law and custom " (p. 147).

Family Law.—The most important piece of legislation in the field of Family Law was certainly the Matrimonial Causes Act with which Mr. A. P. Herbert's name is inseparably connected (pp. 5–7). It is a long cry now to the pre-war years, which seem so idyllic in comparison with the troubled present; but English public opinion has taken so long to become reconciled to what seems neither a drastic nor a novel legal change. But perhaps it is not the public as a whole which faltered. The new Act has already provided an interesting series of interpretative decisions, some of which are surprising in their results. The Arya Marriage Validation Act of British India (p. 119) is also worthy of note.

Turning to a somewhat different aspect of the law, the Victorian Maintenance Amendment Act extending certain maintenance benefits to stepmothers provides, as our correspondent, Mr. Woinarski, writes, " a legislative recognition of the value of a stepmother to the State in modern times " (p. 79). The same State revised and enlarged the application of the principle of family provision upon inheritance (p. 78). The Dionne

Quintuplets has again engaged the attention of the Ontario legislature (p. 46). In this Province also a husband has been relieved from liability for his wife's ante-nuptial contracts and debts (p. 78). An important consolidating measure in South Africa covers the field of Child Welfare and, *inter alia*, makes some changes in the law of child adoption; in particular, an adoptive parent is now to be permitted to marry an adopted child (p. 100).

Criminal Law and Procedure.—It is not necessary to make reference to the numerous changes made under this heading in detail. We note, however, a few of special interest. The Public Order Act of the United Kingdom (p. 5), though no doubt in the circumstances a beneficial piece of legislation, is an unpleasant symptom of the methods of modern partisanship. In Quebec it is now illegal to use a house for the propagation of communism or bolshevism, or to print or publish writings tending thereto (p. 48). In Western Australia it is made an offence to "split" lots at auction sales (p. 84). The age of consent to intercourse was raised in Straits Settlements from 15 to 16 years and other provisions enacted for the protection of women and girls (p. 137). In several territories new provisions were enacted as to forgery and counterfeiting, giving effect to the provisions of the International Convention for the suppression of Counterfeiting Currency. This was the case in Gambia (p. 143), Somaliland (p. 153), Fiji (p. 91) and Tonga (p. 93). Special provisions as to trial of juvenile offenders were also enacted in Gambia (p. 143), and in Palestine a very complete Juvenile Offenders Ordinance, which has since been itself amended, took the place of the earlier legislation (p. 173). Power was given to the Court of Criminal Appeal in Straits Settlements to order a re-trial (p. 135). In Sarawak power was taken to try subjects of the Rajah for offences committed without the State (p. 143).

Transport.—New South Wales (p. 65) imposed a 30-mile speed limit in built-up areas and threw the burden on the driver to prove that a speed exceeding 50 miles an hour elsewhere was not dangerous to the public. Other provisions in the Act resemble those of English legislation. Power is given for regulations making compulsory in certain cases the fitting of a speed governor. There are a number of cases in which a licence is automatically suspended. The Natal Ordinance (p. 108) is largely based on the English Road Transport Acts, but it makes no provision for third party insurance. The similar enactment in the Federated Malay States (p. 138), also based on English statutes, did deal with insurance against third party risks. Nigeria has sought by legislation to give effect to her adherence to the International Motor Vehicle Conventions, 1926, 1931 (p. 145). In Trans-Jordan also a new Code in this matter of road transport has been enacted (p. 175). Sierra Leone, apparently with a deliberate intention to protect the interests of the Government Railway, prohibited or restricted the carriage of certain classes of goods along certain roads (p. 147). This legislation follows precedents from the Gold Coast and East Africa.[1] In Alberta (p. 38) lamps on cycles and rear reflectors have at last been made compulsory. Pedestrians crossing a roadway elsewhere than at a crossing are to yield right of way to vehicles. Presumably this latter provision refers only to urban areas where pedestrians' crossings are frequent.

Agriculture.—The encouragement and assistance of agricultural

[1] Cf. *Journ. Comp. Leg.*, 3rd Series, vol. xx, pt. iii, p. 163.

enterprise are dominating interests in most territories to-day. That agriculture needs so much help financially seems bizarre to the outsider, for its products are still the foundation on which our lives are lived. In the maddest and most distraught of conceivable worlds, bread, beef, sugar, tea and the like would continue in demand. However, in all parts of the Empire the needs of agriculture were much to the fore in 1937. In England the Livestock Industry Act (p. 12) and an Agriculture Act (p. 13) are symptoms of this general concern. The power taken by the former to close redundant markets notwithstanding ancient charters has given rise to possibly unnecessary anxiety in some of our smaller market towns in which the weekly market day is shopping day for all the countryside around. The local tradesfolk at least are in dread lest the closing of the local market should bring about the gradual change of shopping customs. In the Commonwealth of Australia the subsidy on artificial manure was continued though reduced (p. 60). New South Wales extended the period of farmers' relief (p. 63) and strengthened the hands of the Government in its struggle with noxious plants. Queensland enacted an urgent measure to cope with a threatened plague of grasshoppers (p. 69) and another to secure the better protection of poultry (p. 68). In Tasmania more flexible legislation took the place of the Farmers Debt Adjustment Act of 1935.[1] In Prince Edward Island the formation of farmers' institutes to promote agricultural education and the dissemination of information as to improved methods of cultivation is one of the methods adopted for the encouragement of agriculture (p. 47). Efforts to promote agriculture were made also in many of the colonies—in the Bahamas (p. 163), where a Board was given power to carry out experiments and researches with that object in view.

At the Conference of East African Governors held at Amani in 1935 on the subject of plant protection certain recommendations as to common legislation were made. Ordinances or Decrees implementing these have been enacted in Tanganyika (p. 164), Zanzibar (p. 157), and it would seem also in Kenya (p. 150) and Uganda (p. 155). In Gold Coast the provisions of a repealed Pests Ordinance relating to inspection and treatment of plant diseases were re-enacted " with such modifications and additions as experience and research have shown to be advisable " (p. 144).

In numerous territories legislation relative to agricultural marketing has been enacted. Among such may be mentioned Ontario, where a Farm Products Board for the control of the marketing of farm products was instituted (p. 46); Southern Rhodesia, where a series of enactments dealt with tobacco (p. 112), milk (Dairy Act), bacon (Pig Industry Act) and maize (p. 113) ; Zanzibar, where a Decree dealing with the purchase and exportation of cloves gave effect to the recommendations of a recent report on that industry (p. 157); and the Union of South Africa, where provision was made for the appointment of a National Marketing Council controlling schemes to regulate and increase the sale of farm products (p. 97).

Labour and Social Legislation.—Industrial legislation was largely represented in 1937. The " huge new Factories Act " of the United Kingdom (p. 9) may be said to be the crown and justification of the efforts made, amid much opposition and discouragement, by the early reformers, Hobhouse, Ashley, Fielden, Sadler and others. The new Factories and

[1] *Journ. Comp. Leg.*, 3rd Series, vol. xix, pt. ii, p. 83. The doubts of our correspondent as to the efficacy of this Act appear to have been justified.

Workshops Ordinance in Hong Kong fixes 14 years as the minimum age for employment in industrial undertakings and in other respects implements the International Labour Convention of 1919 (p. 134). In Nova Scotia a somewhat elaborate enactment regulated the old contract of apprenticeship in the building trades, and in the same Province it was (? for the first time) declared lawful for employees to form themselves into a trade union and to bargain collectively (p. 44). The Freedom of Trade Union Association Act of Alberta (p. 38) is on the same lines but has since been in part repealed. In Malta a special Ordinance has sought to clear up legal controversy by defining a trade union (p. 171). In British Columbia the right of both employees and employers to organize for collective bargaining was declared and machinery for settlement of industrial disputes was provided (p. 41). So also in Manitoba (p. 42). In Saskatchewan an Act modelled on Ontario legislation [1] authorizes an "Industrial Standards" officer appointed under the Act to convene, upon petition, a conference of employers and employees which may draw up a schedule of wages and hours made obligatory by the approval of the Lieutenant-Governor in Council (p. 55). In the Union of South Africa more comprehensive provisions took the place of the Industrial Conciliation Act of 1934 and amending statutes. Registration of employers' organizations and of trade unions is prescribed and settlement of disputes is to be brought about by means of Industrial Councils, formed by agreement between employers and trade unions. Agreements negotiated by an Industrial Council may be made binding by the Minister (pp. 101–3). Supplementary to this measure, another enactment repealing the Wage Act of 1927 establishes a Wage Board to investigate and report on conditions of employment; the "determinations" of the Minister which may follow the recommendations of the Board may be made enforceable (pp. 103–4). Another Act seeks to assist employees in certain industries during periods of enforced unemployment by establishing separate unemployment benefit funds for those industries (pp. 96–7). In Southern Rhodesia an amendment of the law of industrial conciliation is primarily designed, it seems, to prevent dilution by cheap native labour (p. 114). Collective labour agreements were further regulated in Quebec. Any party to an agreement may apply to the Cabinet for a decree making such an agreement binding; if such a decree is made, a joint committee must be formed to supervise its execution, such committee constituting a corporation (p. 51). Moreover, an arbitration tribunal in matters of fair wages was constituted which may, with the approval of the Cabinet, determine fair wages by Ordinance the provisions of which will constitute a matter of public order so that it becomes unlawful to stipulate in any labour agreement a lower wage than that fixed by the Ordinance (p. 51).

In Northern Rhodesia the hours of employment of shop assistants were restricted and eighteen days' leave of absence on full pay in every year secured to each assistant (p. 111). In Jamaica also the employment of shop assistants was regulated on English lines and the employer was required to provide adequate seating accommodation (p. 166).

From the same island a Workmen's Compensation Law is reported which apparently for the first time provided for the payment of compensation to workmen for injuries suffered in the course of their employment (p. 166). So also in the Leeward Islands (p. 167) and the Falkland Islands

[1] *Journ. Comp. Leg.*, 3rd Series, vol. xx, pt. ii, p. 49.

(p. 161). The Workmen's Accident Insurance Scheme in Jersey, to which reference was made in our Review of Legislation, 1935,[1] has now been extended to " all accidents suffered by registered workmen whether arising out of and in the course of employment or not " (p. 20). In this matter of Workmen's Compensation a new departure was made in Victoria. Jurisdiction in these matters was removed from the courts to a Board composed of the county court judge as chairman with two others representing employers and workmen respectively. Prohibition and certiorari are not to lie (p. 80).

A novel experiment was made in Quebec. In towns with a population exceeding 25,000 new courts may be established to be called Social Welfare Courts and designed to deal with juvenile delinquents, hospitalization of indigents, admission of the insane, etc. The judge is to " promote the protection of childhood, acting as an adviser, and good relations between consorts, as a conciliator " (p. 52).

Amenities, Antiquities, etc.—It is satisfactory to find a further effort made in Northern Ireland to control at least the maleficent activities of the advertiser on public roads (p. 24). That more energetic efforts are not made to check this unhappy expression of the acquisitive spirit cannot, in the present state of public opinion, be a matter for surprise. Has not a highly respected judge recently conceived that an advertisement in a public park might well enhance its amenities ? [2]

Northern Ireland has also amended its Ancient Monuments Act of 1926, and in particular has sought to control the enterprise of untrained amateurs in archæology (p. 25). And Bermuda has created a trust for the preservation and restoration of places of historic interest or beauty (p. 56). South Africa also extended the powers of the Preservation Commission established under the Natural and Historical Monuments Act of 1933 and empowered the Minister of the Interior to prohibit export of relics or antiques within the meaning of that Act (p. 96). In the United Kingdom, Bath, by private Act, secured protection of her historic appearance (p. 17).

In another but related field we find legislation for the preservation of wild flowers in the Cape of Good Hope, where the picking and selling of wild flowers not expressly excepted was entirely forbidden (p. 106). Nature reserves in which no flowers can be exempted are to be provided, and hawking, peddling and picking within 50 yards of a public road are also forbidden. In Ceylon also a well-designed Ordinance sought to give effect to provisions of the London Convention of 1933 for the protection of fauna and flora (p. 131). Further protection was also afforded to native fauna in Queensland (p. 71) and in Sudan (p. 158). In this connexion it is also permissible to mention a Newfoundland Act passed to assist a promoter who seeks to establish European reindeer in Labrador. But " no reindeer have as yet been brought in " (p. 56).

Entertainments, Amusements, Refreshments.—An elaborate amendment of the Theatres and Public Halls Act, 1908, of New South Wales prohibits the exhibition of cinematograph films in a public hall unless the licence has been endorsed for that purpose. A Committee is set up to conduct investigations in relation to the provisions of this Act, including standards of accommodation, charges for admission, etc., and to report ; a draft Bill giving effect to the recommendations in the Report

[1] *Journ. Comp. Leg.*, 3rd Series, vol. xix, pt. ii, p. 18.
[2] In *Twickenham Corporation* v. *Solosigns*. 54 T.L.R. at p. 792.

is to accompany the Report. The Act also makes further provisions as regards the quota of Australian films (pp. 66–7). Trans-Jordan created a Board for the censorship of films (p. 174), and in the United Kingdom the Cinematograph Films (Animals) Act prohibits films in the production of which suffering may have been caused to animals (p. 16). The means suggested whereby a court may arrive at the conclusion that such suffering was caused are interesting.

In Nigeria, by an amendment of the Criminal Code, it has been made an offence to take part in any lottery, but the Governor may exempt lotteries organized by clubs (p. 146). In British Honduras the relaxation is in favour of the British Honduras Charitable Trusts Ltd. in respect of charitable and philanthropic sweepstakes (p. 161). The subtle and, as some think, dangerous plan of supporting " charity " by exploiting the " sporting " instinct is applied in South Australia by a permitted exemption of four race meetings a year from totalizator duty provided the profits are devoted to charitable purposes (p. 75).

In Madras the production, manufacture, possession, export, import, purchase, sale and consumption of intoxicating liquors was prohibited, and, our correspondent optimistically adds, " proper provision has been made for the due enforcement of the Act " (p. 120). Like prohibition is reported from the North-West Frontier Province (p. 126).

Miscellaneous.—In Alberta (p. 37), as also in British Columbia (p. 40), the civil law principle that damages should be apportioned when both parties are to blame has been adopted. In Alberta also provision was made by a Sexual Sterilization Act for sterilization where the power of procreation would result in the transmission of mental disease or the risk of mental injury (p. 37). Hire-purchase agreements have again received attention in Western Australia. The vendor (letter) must now, on taking possession of the goods, serve on the purchaser an account and also a copy of the relevant portion of the principal Act (pp. 82–3). In the same State a new Moneylenders Act, amending that of 1912, enables the court to reopen a transaction if it appears *either* that the interest or charges are excessive *or* that the transaction is harsh or unconscionable. The new Act contains other amending provisions and, *inter alia*, prohibits advertisements by moneylenders unless confined to specified particulars (p. 83). Power to reopen moneylending transactions has also been given in Jamaica (p. 166). In several territories special legislation vests in the Crown all petroleum in its natural state on or below the surface, among others, New Zealand (p. 89), British Honduras (p. 161), Kenya (p. 149). Legislation in Straits Settlements on the lines of the English and Australian Statutes as to secret business commissions is described by Dr. de Mello as " excellent in conception " but possibly " Utopian in practice " (p. 135). In future elections to the Archiepiscopal Throne of the Autocephalous Church of Cyprus the Archbishop-elect is not to be enthroned until he has been approved by the Governor (p. 171). The drastic provisions as to the discharge of " gold clause obligations " enacted in the Dominion of Canada (p. 33) and the Canadian Provinces merit special notice.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* CECIL T. CARR, ESQ., LL.D., *Editor of Statutes Revised, Statutory Rules and Orders, etc.*]

THERE were 70 Public General Acts of Parliament in the session 1 Edw. VIII & 1 Geo. VI which began on November 3, 1936, and ended on October 22, 1937.

A technical issue of importance to legislators and draftsmen arose in debates on the Special Areas (Amendment) Bill. The Bill, like many others, authorized the spending of public money. It was founded on a preliminary Money Resolution. Private members complained in the House of Commons that the narrow and detailed framing of the Money Resolution was found to bar them from moving amendments to extend the areas covered by the Bill or to place the areas under a special Minister. It is, of course, a well-known tradition of the House that the Crown (*i.e.* the Government) alone can initiate proposals for expenditure; a private member cannot move an amendment which will increase the charge beyond the amount in the motion put forward by the Minister concerned. The protests were examined by a Select Committee whose report (House of Commons Paper No. 149 of 1937) deserves study. The incident reflects the change from an era in which the private member sought to restrict Government expenditure to one in which he seeks to encourage it.

Among the successful Bills initiated by private members the Matrimonial Causes Act, dealing with a most controversial topic, was outstanding. Its sponsor's account of it instructively explains the procedural and other obstacles.[1]

Improvement of the Statute-book.—The Acts relating to four subjects of law were consolidated. Of these the pure consolidation in the Firearms Act (c. 12) was far more difficult than appeared. The Act does not apply to Northern Ireland. The Belfast Parliament is left to do its own consolidation, notwithstanding that some provisions to be reproduced are outside its legislative competence; this situation is covered by the general authority in 18 & 19 Geo. V. c. 24. s. 2 (3) and 22 & 23 Geo. V. c. 11. s. 3.

The Children and Young Persons (Scotland) Act (c. 37) is competently framed on lines parallel to those of the English Act of 1933. Little now remains of the principal Act of 1908 except a section, left presumably to be caught up in some future consolidation of Scottish education law, about verminous children.

The Export Guarantees Act (c. 61) happily replaces in permanent form a series of hitherto temporarily continued Overseas Trade Acts

[1] *The Ayes Have It*, by A. P. Herbert, M.P. (London: Methuen, 1937.) 6*s*.

ranging from 1920 to 1934. The amount of the guarantees, originally £26,000,000, is enlarged to £50,000,000 and the scope of the guarantees is varied.

Lastly the Factories Act (c. 67) successfully combines consolidation with copious amendment to an extent feasible only if members of Parliament, presented with the chance to add amendments of their own, refrain from such use of the opportunity as may smother the Bill.

Students of legislative form will admire the neat brevity of the marginal notes to the sections of the Factories Act: "Cleanliness," "Overcrowding," "Temperature," "Ventilation," "Lighting," and so on. The old-fashioned prefix "Provisions as to" is happily out of date. In two Acts of the session it has not apparently been possible to avoid using two sets of (*a*), (*b*) and (*c*) in the same subsection [1]—a source of trouble in future references.

Constitutional.—Whether or no the Sovereign can abdicate *ex mero motu*, His Majesty's Declaration of Abdication Act (c. 3) gives formal Parliamentary sanction to the declaration signed by King Edward VIII at Fort Belvedere on December 10, 1936. The Act of Settlement is now to be construed as if the Duke of Windsor, "his issue, if any, and the descendants of that issue" (were those last six words redundant ?) had no right of succession to the Throne; and the Royal Marriage Act, passed in 1772 to define a dubious Royal prerogative when George III found the marriage of his brother (the Duke of Cumberland) distasteful, is not to hinder the marriage of the abdicating monarch or of any of his issue. This legislation, being an "alteration in the law touching the succession to the Throne" within the meaning of the preamble to the Statute of Westminster, the assent of the Dominions is recited; in spite of the urgent haste of enactment, consultation did not involve inconvenient delay.

A new Accession means a new Civil List Act (c. 32), largely superseding the similar Act passed a year before. There is provision for Her Majesty the Queen and (with a special arrangement while the Duchy of Cornwall is vested in the Crown) the Princess Elizabeth and the Duke of Gloucester. His Majesty may assent to certain payments from Duchy revenues during the minority of any future Duke of Cornwall.

A message from the King, recalling the difficulties that arose during the illnesses of King George V in 1928 and 1936, initiated the Regency Act (c. 16). There have been many such statutes,[2] but now for the first time regency becomes a permanent part of our constitutional machinery. The Act is not a law touching the succession to the Throne; the assent of the Dominions, where the administration of the executive business of the Crown through a Governor-General avoids any difficulty, was therefore unnecessary. There is to be a regent in the United Kingdom if the Sovereign on accession is under 18 [3] or in the event of total incapacity. The latter contingency is established if any three or more named persons "declare in writing that they are satisfied by evidence, which shall include the evidence of physicians, that the Sovereign is, by reason of infirmity of

[1] 1 Edw. VIII & 1 Geo. VI. c. 47, s. 4 (3), and c. 69, s. 22 (1).

[2] For instance 28 Hen. VIII. c. 7, s. 14 (under which Somerset became Protector); 24 Geo. II. c. 24; 5 Geo. III. c. 27; 51 Geo. III. c. 1; 1 Will. IV. c. 2; 3 & 4 Vict. c. 52; 10 Edw. VII & 1 Geo. V. c. 26.

[3] Maitland pointed out (*Constitutional History*, 1931 edition, p. 345) the mistake of supposing that Sovereigns attain full age at 18; at common law they are never under age, but 18 has been chosen as the age when a regency ceases (see 28 Hen. VIII. c. 7, s. 14, and 3 & 4 Vict. c. 52, s. 1).

mind or body, incapable for the time being of performing the royal functions, or that they are satisfied by evidence that the Sovereign is for some definite cause not available for the performance of those functions." The named persons are the wife or husband of the Sovereign, the Lord Chancellor, Speaker, Lord Chief Justice of England and Master of the Rolls. Their declaration must be made to the Privy Council and communicated to the Dominion Governments and to the Government of India. The choice of a regent is automatic and not (as in certain famous precedents) selective. The regent will be the person next in succession to the Crown, subject to exceptions for possible disqualification. In the event of illness not amounting to the "infirmity of mind and body" already mentioned, or of absence or intended absence from the United Kingdom, the Sovereign may delegate his functions to Counsellors of State specified in letters patent. There can be no delegation of power to dissolve Parliament except on the express instruction of the Sovereign (which may be conveyed by telegraph) or of power to grant peerages. The Lords Justices Act of 1837 is repealed; it was always doubtful whether it was an *ad hoc* or a permanent provision.

In 1936 the House of Commons passed Mr. Maclay's motion concerning the anomalies of ministerial salaries. This gives the cue to Part I of the Ministers of the Crown Act (c. 38). Secretaryships of State and nine other major Ministries are scheduled as carrying an annual salary of £5,000; four others will carry £4,000, and the Ministry of Pensions £2,000. A salary scale is also prescribed for Parliamentary Under-Secretaries. The number of Secretaryships and Under-Secretaryships is limited for this purpose. A Cabinet Minister will have £5,000 a year, notwithstanding that his office might otherwise carry a lower salary. The Prime Minister and First Lord of the Treasury (this permanent linking of the two offices was said not in itself to deny the premiership to a member of the House of Lords) is to have £10,000 a year and a pension of £2,000. A salary of £2,000 is given to the Leader of the Opposition; the definition of this post makes it clear that the recipient must be a member of the House of Commons. His salary and the Prime Minister's pension are charged on the Consolidated Fund; the Act preserves the right of the House of Commons to move deductions of the other salaries, which are declared to be maximum salaries. Thus the word "Cabinet" finds its way on to the statute-book; the Prime Minister was already mentioned in the Chequers Estate Act in 1917.

Part II of the Act deals with capacity to sit in the House of Commons. Instead of the old maximum (allowing no more than six Secretaries and six under-Secretaries of State to sit there) there is a new arrangement restricting the number of Ministers by reference to groups set out in a schedule. The general law of disqualification for sitting and voting in Parliament still waits to be rewritten in simple terms.

Imperial Arrangements.—The Empire Settlement Act (c. 18) extends till 1952 the Government's power to assist emigration within revised financial limits.

The legislation which wound up the Royal Niger Company in 1899 had preserved a claim by the Exchequer to certain surplus receipts from the territories administered by the company. The area was the less easy to identify since the amalgamation of Northern and Southern Nigeria in 1914, nor was it proper to press the claim in view of Nigeria's handsome contributions to war expenditure and the cost of defence. The liability

under the 1899 arrangement is now cancelled by the Nigeria (Remission of Payments) Act (c. 63).

A short India and Burma (Existing Laws) Act (c. 9) explains and amends ss. 292 and 293 of the recent Government of India Act and the corresponding provisions for Burma. As an instance of doubts which had to be resolved, s. 293 had authorized the modification of existing Indian laws by Order in Council in order to bring them into accord with the new constitutional position. Did an express power to adapt and modify laws by Order in Council include a power to repeal a law which the changed position had made unnecessary? The East India Loans Act (c. 14) authorizes sterling borrowing by the Secretary of State on behalf of the Governor-General of India in Council, pending the establishment of Federation. Existing laws allowed the Secretary of State in Council to borrow; but the Secretary of State in Council was to disappear when the new constitution took effect on April 1, 1937. A series of old statutes relating to the financial obligations of the disappearing figure is cleverly repealed and reproduced with suitable adaptations.

International Affairs.—The policy of non-intervention is furthered by the Merchant Shipping (Carriage of Munitions to Spain) Act (c. 1). The export of any munitions or aircraft was already restricted by the 1931 Order in Council made under s. 8 of the Customs and Inland Revenue Act, 1879, export being permitted under Board of Trade licence only. The new Act forbids the ships to which it applies to load prohibited articles or to carry them away for discharge at a Spanish port or for transferring into another vessel at sea for that purpose. Officers are empowered to board ships, inspect documents, search and examine cargo and require any suspected packages to be opened. There is a retrospective saving for action already taken (to protect naval officers who had already been giving effect to the Foreign Secretary's previous declaration of policy) and there is power to terminate the Act by Order in Council. Three months later, on March 8, 1937, the Non-Intervention Committee reached an agreement. Soon afterwards the temporary Merchant Shipping (Spanish Frontiers Observation) Act (c. 19) was enacted to ascertain whether the agreement was being kept. All ships proceeding to Spain must call at a non-Spanish port and take "observing officers" on board. These officers are entitled to accommodation and subsistence and to facilities for wireless communication. The naval officers of certain countries are authorized to board ships within ten sea miles of the Spanish coast. There is power by Order in Council to give effect both to observation arrangements and to any amendment of the agreement. The date of operation of the Act, depending on parallel legislation in other maritime countries, is left to be fixed by Board of Trade order.

The Treaties of Washington Act, 1922, and the London Naval Treaty Act, 1930, giving effect to agreements reached in those two years, came to an end in 1936. A new London Naval Treaty Act, 1937 (c. 65), briefly implements the 1936 treaty for limiting naval armaments and for exchanging information about naval construction. The new Act is not self-contained but legislates by reference to the 1922 and 1930 statutes which are resuscitated for the purpose.

Defence.—The Army and Air Force (Annual) Act (c. 26), continuing as usual the temporary powers of regulation and discipline, adds a few minor amendments mainly as to billeting in emergency and service with the reserve. There has long been a standing power to reprint the Army

Act and Air Force Act as amended by any other statute. The two Acts had been amended by Orders in Council under ss. 288 and 311 (5) of the Government of India Act,[1] and the power to reprint is now extended to cover these amendments too. Service with the reserve is also dealt with by a new Reserve Forces Act (c. 17). The calling up of men for the Palestine emergency had shown the need of increasing the flow into that special branch of the Reserve which brings units of the Regular Army up to strength for foreign service without the cumbrous process of calling out the whole Army Reserve.

The rearmament programme explains the Defence Loans Act (c. 13). There is power to borrow up to £400,000,000 before March 31, 1942.

Public Order.—The Public Order Act (c. 6) surmounts many technical difficulties in essaying to control the nuisance of provocative manifestations of extreme political partisanship, the wearing of uniforms, the adoption of quasi-military formations in procession, and the violent interference with the public meetings of opponents. A shirt, black, red or green, may be a uniform ; but what about a tie, a badge or a mere button ? The Act sensibly leaves these problems to the magistrates. It forbids anyone " in any public place or at any public meeting " to " wear uniform signifying his association with any political organization or with the promotion of any political object." A saving clause enables the authorities to allow the wearing of uniform on ceremonial, anniversary or other special occasions not likely to involve risk of public disorder. There is also a prohibition on quasi-military organizations trained or equipped either (i) for the purpose of " enabling them to be employed in usurping the functions of the police or of the armed forces of the Crown," or (ii) for the use or display of physical force in promoting any political object. For this offence there is to be no prosecution without consent of the Attorney-General or, in Scotland, the Lord Advocate ; he may apply to the High Court for an order to ascertain the nature of the organization's property and to prevent its dispersion. In any proceedings proof of words or acts (whether or not in the presence of any party in the case) " by any person taking part in the control or management of an association, or in organizing, training or equipping members or adherents of an association," is " admissible as evidence of the purposes for which, or the manner in which, members or adherents of the association (whether those persons or others) were organized or trained or equipped." A provision for search on a warrant issued by a High Court judge was added without the usual protests on behalf of the liberty of the subject. Other new powers are given for preserving order during public processions, prohibiting " offensive weapons " (another doubtful phrase left to be interpreted by the magistrates) at a public meeting or in procession, and penalizing the use in a public place or public meeting of " threatening, abusive or insulting words or behaviour " likely to lead to a breach of the peace. If disorderly conduct occurs at a lawful public meeting, a constable, on request from the chairman, may demand the offender's name and address ; it will be an offence to refuse to reply or to give a false answer.

Domestic Relations.—Mr. A. P. Herbert's Marriage Bill was in part rebuilt in the official dockyards before being finally launched as the Matrimonial Causes Act (c. 57). In spite of the rebuilding process his

[1] See S.R. & O. 1936 (No. 1031), I, p. 1 (Aden Colony Order, made under s. 288), and S.R. & O. 1937 (No. 230), pp. 978–83 (Govt. of India (Adaptation of Acts of Parliament) Order, made under s. 311 (5)).

gay preamble remained to recite the expediency of amending the Acts relating to marriage and divorce—" for the true support of marriage, the protection of children, the removal of hardship, the reduction of illicit unions and unseemly litigation, the relief of conscience among the clergy and the restoration of due respect for the law."

The Act begins with a new restriction. There is to be a waiting period for divorce ; no petition can be presented during the first three years of married life, save where there is special hardship to the petitioner or special depravity in the respondent. As suggested in the Majority Report of the Gorell Commission in 1912, there are three new grounds for divorce : desertion for three years, cruelty and incurable insanity. For this third new ground the exact words are " is incurably of unsound mind and has been continuously under care or treatment for a period of at least five years immediately preceding the presentation of the petition." The definition of " under care or treatment " has given more trouble than the decision whether in a particular case the mental illness is beyond recovery. The court is given a clearer duty to examine suspicions of connivance, condonation and collusion. There are revised grounds for the grant of judicial separation. Here there is something relevant to the three-year waiting period. It may be awkward for a would-be petitioner for divorce to keep the evidence in cold storage for those three years. But the grant of a judicial separation or a separation order is not to bar a subsequent petition for divorce upon the same (or substantially the same) facts ; on the petition for divorce the court may treat the decree of judicial separation or the separation order as " sufficient proof of the adultery, desertion or other ground on which it was granted." New grounds of nullity are added as recommended in 1912 : (*a*) wilful refusal to consummate ; (*b*) insanity or epilepsy of either party at the date of the marriage ; (*c*) venereal disease in a communicable form present in the respondent at that date ; and (*d*) existing pregnancy at that date by some person other than the petitioner. There is a not very happily worded power for the court to presume death (where a married person alleges reasonable grounds for supposing the spouse to be dead) and thereupon to decree dissolution of the marriage. Under the previous law the only person who could apply for a decree *nisi* to be made absolute was the petitioner. This power could be unfairly used. The Act now enables the guilty party, if there has been delay in the application, to apply after three months ; the court will then have full power to decide as it thinks fit. The " relief of conscience among the clergy," promised in the preamble, is found in a clause which says that clergy of the Church of England or the Church in Wales shall not be compelled to solemnize the marriage of a divorced person whose former spouse is still living or to permit such marriage in any church or chapel of which they are ministers. Among other miscellaneous provisions of the Act is one which enables a husband or wife to obtain a separation order from a court of summary jurisdiction on the ground of adultery.

Matrimonial disputes and kindred matters in the magistrates' courts are further dealt with by another statute which began as a private member's Bill and was benevolently regarded by the Government. The Summary Jurisdiction (Domestic Proceedings) Act (c. 58) is based on the knowledge that these disputes are most sympathetically considered and most hopefully determined by a small bench at a private hearing without press reports. The Act describes as " domestic proceedings " the various

cases under the Guardianship of Infants Acts and the Summary Jurisdiction (Separation and Maintenance) Acts. For these proceedings there are to be special courts of not more than three magistrates (" to include, so far as practicable, both a man and a woman ") ; their sittings will be kept separate from the ordinary work of the courts ; the public will be excluded, and newspapers may publish only certain specified particulars—the names, addresses and occupations of the parties, a concise statement of the charges, defences and countercharges, submissions on legal points and the court's decision and observations. In matrimonial disputes, if the court or a magistrate has asked a probation officer or anyone else " to attempt to effect a conciliation," then, if the attempt has failed and he thinks fit so to do, the probation officer or other person may furnish to the court " statements of allegations " to explain what the trouble is all about. *A priori* any information gathered by a probation officer outside the court would be a long way from complying with the strict laws of evidence. The Act stipulates that these " statements of allegations " are not to be received by the court as evidence (though the court may use them for putting questions), that no allegation is to be included without consent of the party making it, and that copies of the " statements of allegations " shall be delivered to the parties.

In these domestic proceedings, and also in cases about affiliation orders under the bastardy laws, the probation officer may be directed to investigate the means of the parties and to report thereon to the court. The report may be received by the court as evidence, notwithstanding any rule of law to the contrary. As soon as it is made, the court is to ask each party if he or she objects to anything therein ; if there is objection, the probation officer must give evidence on oath. In domestic or bastardy proceedings, where a party is not legally represented, the magistrates are to help him or her if he or she seems " unable effectively to examine or cross-examine a witness." The magistrates must ascertain the points to be brought out in the examination or cross-examination and must put (or cause to be put) such questions to the witness in the interests of the party as seem proper. When selecting a probation officer or other person to act as conciliator in a matrimonial dispute, regard is to be had to the religious persuasion of the parties. Here, as elsewhere, the Act is standardizing or regularizing for all courts the methods already adopted by the more progressive bodies of magistrates. There are special arrangements for domestic proceedings courts in London.

Welfare and Social Services.—The Physical Training and Recreation Act (c. 46) makes money available for its purposes through the Board of Education in accordance with recommendations made by a Grants Committee appointed by the Prime Minister with Treasury approval. The grants may go to local authorities or local voluntary associations. Particular objects mentioned in this connexion are the provision and equipment of gymnasiums, playing fields, swimming baths, holiday camps and camping sites and other buildings and premises for physical training and recreation, as well as the training and supply of teachers and leaders. Two National Councils, one for England and Wales and the other for Scotland, will advise the Government and will arrange for local committees and sub-committees. Local authorities receive enlarged powers of taking and equipping land for clubs and societies with athletic, social or educational objects.

The Education (Deaf Children) Act (c. 25) lowers the age for the com-

pulsory school attendance of deaf boys and girls from 7 to 5 in England. The age was already 5 in Scotland.

There is a minor change in the law of national health insurance, rewritten as recently as 1936. In reproducing the existing law, the 1936 Act said that no arrangements for dispensing medicine to insured persons could be made with persons other than those entitled under the Pharmacy and Poisons Acts to use the title " chemist and druggist." There was a doubt whether this did not exclude corporate bodies from supplying medicine as they had been allowed to do from the earliest stage of State health insurance. A short amending Act (c. 24) removes the doubt.

The Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act (c. 39) extends State insurance to a fresh class of " special voluntary contributors." A great scheme of compulsory thrift, based on weekly contributions from employer and employee and a subsidy from the State, already covers the average wage-earner. There were others with comparable incomes who were not thus insured either because they worked independently or for some other reason. Clergymen, smallholders, dressmakers and the village blacksmith were mentioned as types of these uninsured persons who would be glad to come into the scheme voluntarily. Broadly, the Act enables any man between the age of 21 and 40 who has been resident in Great Britain for the past ten years, and whose income does not exceed £400, to pay contributions graduated according to the age at which he enters the scheme and to secure a weekly pension of 10*s*. for himself and his wife from the age of 65 with the added advantage of the widows' and orphans' pensions available to persons within the compulsory system. Of the maximum income of £400 for a man not more than half must be unearned income ; for a woman the maximum income is £200. The principles on which total income and unearned income are to be ascertained and the extent to which a spouse's income shall be taken into account, as well as the arrangements for making Inland Revenue certificates conclusive evidence, are conveniently left to be prescribed by departmental regulations. The difference between the maximum incomes of men and women is explained by the anticipation that far more men than women want to provide for a surviving spouse and dependants. There are certain " statutory conditions " with which the special voluntary contributor must comply. There can be no widow's or orphan's pension till contributions have been paid for 104 weeks, and no old age pension unless he has been continuously insured for ten years before reaching 65 and 260 contributions have been paid. The Act contains other complicated provisions. The Government Actuary is to report on its working every ten years.

The Special Areas (Amendment) Act (c. 31) prolongs and extends the facilities for relief of industrial depression in districts where unemployment is particularly acute. A Special Area Commissioner may now let factories at a rent making a reasonable return on the outlay. He may also, to induce persons to establish an industrial undertaking in a special area, promise financial assistance towards rent, income-tax or rates, " notwithstanding that the undertaking is carried on for the purpose of gain" ; and he may make grants for roads and land drainage. Instead of redrawing the original map of the special areas, the Act does something for outside areas which the Minister of Labour, after consulting an advisory committee, finds to have suffered severe unemployment for a considerable time and to be unlikely to recover unless something is done under the powers now

being provided. If a " site-company " (either not trading for profit or else so constituted that its dividends are strictly limited) is incorporated for providing factories in one of these outside areas, the Treasury may give help either by subscribing to the share capital or by way of loan. The amount of this help is limited to £2,000,000.

Factories.—Copious provisions for the health, welfare and safety of employees will be found in the huge new Factories Act (c. 67) ; its passing without friction was a triumph of goodwill. Factory law was originally concerned with textile workers only ; indeed the existing code (revised in 1901) still distinguished between textile and non-textile factories. This distinction is now swept away. Instead of a Factory and Workshop Act (as in 1901) we have a Factories Act with a wide definition of " factory." Among the new provisions are additional space for each worker, minimum temperature requirements, adequate lighting, special care in cleaning machinery and in the use of lifts and hoists, accommodation for clothing not worn in working hours, a forty-eight-hour week with limited overtime, and so on. The age-limits for employing juveniles had already been revised under the Education Acts.

Public Health.—Sewers and drains were dealt with in the big Public Health Act of 1936. An addition to that code is now made by the Public Health (Drainage of Trade Premises) Act (c. 40). The occupier of trade premises in England (outside London) obtains a right (with the consent of the local authority or, where by-laws permit, without such consent) to discharge his trade effluent into the authority's public sewers. The owner or occupier must first serve on the local authority a " trade effluent notice " stating the nature or composition of the effluent, the maximum quantity to be discharged on any one day, and the highest rate of discharge. No trade effluent is to be discharged under such notice for two months ; the local authority may impose conditions subject to a right of appeal to the Minister of Health. The authority may make " trade effluent by-laws " for prescribed purposes ; they will automatically expire after ten years. The Minister may make by-laws if the authority fails to do so ; he may also revoke unreasonable by-laws. Local authorities are entitled to see plans and obtain information ; their officers may take samples of effluents passing from trade premises into public sewers. There is power for the Minister to amend or adapt local Acts so as to make them conform with the new law.

The Hydrogen Cyanide (Fumigation) Act (c. 45) regulates the use of a gas which is useful for exterminating vermin from houses but dangerous because a small quantity is fatal and because the victim is usually unaware of the peril of too early reoccupation of fumigated premises. There is provision for inquiry into accidents, a saving for the use of hydrogen cyanide in exterminating rabbits or other use in the open air, and a power to extend the Act (by Order in Council), with adaptations, to fumigation with any other gas.

The Maternity Services (Scotland) Act (c. 30) makes available for expectant mothers in their own homes comprehensive facilities for antenatal and post-natal care and competent attendance at confinement. Its sponsors stated that Scottish medical practitioners take a larger part in midwifery practice than their English confrères. Be this as it may, the Act is slightly wider in its terms than the corresponding Act which provided a domiciliary service of midwives in England in 1936 (26 Geo. V & 1 Edw. VIII. c. 40). Otherwise there is the same provision for eliminating

midwives whose efficiency is impaired by age or infirmity of mind or body, and for compensating those who cease, or are required to cease, practice; and there is the same prohibition of practice by unqualified persons as soon as the new arrangements are declared to be in full operation in a specified area.

Transport.—In 1815 Parliament took a special interest in the road from London to Holyhead [1] which, thanks to Telford and Parnell, secured communication with Ireland. Somewhat similarly in 1936 the Trunk Roads Act (c. 5) intervenes to make the Minister of Transport the "highway authority" for the principal roads in Great Britain which constitute the national system of routes for through traffic. The parochial responsibilities of the Highway Act, 1835, are left a long way behind. The trunk roads are described in a schedule which there is power to vary by departmental order after due notice to county councils. Roads within the county of London or within county boroughs are outside the Act. It is necessary to adapt various highway laws to fit the Minister and to adjust his relations with local authorities.

A private member's Bill, the Road Traffic Act (c. 44) remedies a curious situation in which persons who shared a taxi-cab fare were apparently committing an offence. It deals also with the currency of carriers' licences. Another short Act (c. 52) provides for the term of office (originally only a seven-year period) and the superannuation of the chairman of the traffic commissioners established for traffic areas under the Road Traffic Act, 1930, the metropolitan traffic commissioner appointed under s. 98 of that Act, and the chairman of the appeal tribunal set up under s. 15 of the Road and Rail Traffic Act, 1933. There is similar provision for the President of the Railway Rates Tribunal, whose functions are judicial; he may continue till he is 72, or, if the Lord Chancellor and other Ministers desire to retain his services, till he is 75. A highly technical Railway Freight Rebates Act (c. 2) is an echo of the de-rating of industrial and freight-transport properties. The railways, required to pool their rating relief in a Railway Freight Rebates Fund and to pass on the benefit to customers in the form of reduced transport charges, had overpaid and were entitled to adjustment.

Harbours.—The Harbours, Piers and Ferries (Scotland) Act (c. 28) deals with "marine works," *i.e.* those harbours, piers, ferries or boatslips which the appropriate departments regard as principally used or required for the fishing or agricultural industries or reasonably required for maintaining communications between the various parts of Scotland, other than marine works belonging to railway, dock or other major undertakings specified in a schedule to the Act. These works have suffered by the inability of their owners, and the inadequacy of the income from dues, to furnish the means to maintain them. The Act empowers local authorities to take them over and apply the rates towards their maintenance. There is a power of compulsory acquisition in default of agreement. Special districts may be formed where a county council thinks that a particular area derives benefit from the marine work, so that the rates required for meeting a deficiency in revenue can be met from that area. Works of construction or improvement by a local or harbour authority have hitherto needed the promotion of a Provisional Order under the General Pier and Harbour Acts or the Private Legislation Procedure (Scotland) Act. There

[1] See 55 Geo. III. c. 152, and 59 Geo. III. c. 30; and see Clifford, *Private Bill Legislation*, II, p. 17, footnote.

has been special provision for works costing less than £2,000 in the Western Highlands and Islands under a statute of 1891. All this is to be simplified. The 1891 Act is repealed. The line is drawn at £5,000, and the Secretary of State (not, be it noticed, the Minister of Transport) may sanction works of construction and improvement under that amount, subject to the usual machinery of public notice and the consideration of objections. The Act contains other provisions as to by-laws, the fixing and revision of tolls, dues or charges, the proper application of harbour revenue, the maintenance responsibility of a local or harbour authority receiving assistance from public funds, the discontinuance of marine works, borrowing powers and repayment. Ss. 24 and 25 make permanent provision for fixing and revising dues on certain inland navigation undertakings and dock dues where post-war provisions for the temporary increase of charges had been continued by Expiring Laws Continuance Acts. The Secretary of State may by order adapt and modify local Acts applying to marine works "as may be necessary to enable the use thereof by seaplanes."

Fisheries.—The Diseases of Fish Act (c. 33), securing provisions which had already passed the House of Lords in 1934, is to combat furunculosis, a disease which attacks salmon and trout. Its provisions may be applied by Order in Council to any other diseases affecting fish of the salmon family or freshwater fish. It forbids the importation into Great Britain of any live fish of the salmon family or, except under licence, any live freshwater fish or live eggs of fish of the salmon family or of freshwater fish. Waters known to be infected may be declared an "infected area" and transport of live fish, eggs of fish and fish food may then be restricted. The "occupier" of waters in such an area must notify the fact if he has removed any dead or dying fish. In suspected places a stand-still order may be made. Inspectors authorized by the Minister may inspect waters, take samples of fish, eggs, foodstuff, "water, mud, vegetation or other matter," and enter on any land for the purpose.

Shipping.—Fishing-boats are made subject to the rules for life-saving appliances (like cargo vessels) by the Merchant Shipping Act (c. 23). The change had been recommended by the Sea Fish Commission. The same Act takes account of facts disclosed at the unsuccessful prosecution of the registered manager of the ship *La Crescenta*. It was an offence to overload a British ship, but not an offence to send the ship to sea overloaded unless the overloading came within s. 457 of the Merchant Shipping Act, 1894, and rendered the ship unseaworthy and likely to endanger human life. It now becomes an offence punishable by imprisonment to send a British ship to sea overloaded.

The British Shipping (Continuance of Subsidy) Act (c. 21) prolongs for another year the payments in respect of tramp voyages.

Coal.—Proposals for what was disarmingly called the unification of coal royalties are foreshadowed by the Coal (Registration of Ownership) Act (c. 56), for the collection and registration of particulars concerning the units of separate ownership of coal and associated rights in the cases of existing working leases. With proposals so controversial an unusual proportion of the new legislation is to be found in the schedules to the Act. The Board of Trade pays the cost of registration provided that applications to register are made within six months of the issue of rules of procedure,[1] and that the property has some marketable value. The

[1] The period has been extended by order under para. 5 (3) (*a*) of Schedule 2; see S.R. & O. 1938 (Nos. 58 and 1532), I, pp. 506, 514.

Board, in examining applications, pays attention to four points: Is the statement as to the rights held in association with the coal correct and exhaustive? Is the statement as to the servitudes and restrictive covenants correct and exhaustive? Does the holding subsist in all the coal properties in which it is stated to subsist? And are there any other relevant matters to be considered?

A minor anomaly is removed by the Coal Mines (Employment of Boys) Act (c. 62). Boys under 16 were forbidden to work at night above-ground at coal mines but not to work at night below the surface. There is now to be a period of at least seven consecutive hours between 10 p.m. and 6 a.m. when boys may not be employed underground.

Industrial Property, etc.—A blue-book published in 1934 (Cmd. 4568) contained the changes in trade-mark law recommended by the Goschen Committee. The Trade Marks (Amendment) Act gives effect to these proposals (c. 49). It deals with the assignment and transmission of trade marks, the power of a proprietor to apply to the Registrar to register another firm as a " registered user " of his trade mark, with defensive trade marks and with contractual restrictions on the use of marks. This is highly technical legislation. The amending Act is timed to run ahead of a fresh consolidation of the law; see 1 Edw. VIII & 1 Geo. VI. c. 49, s. 33 (5), 1 & 2 Geo. VI. c. 22, s. 71 (2), and S.R. & O. 1938, No. 657.

The first Geneva Convention in 1864 decided to protect the sick and wounded and the medical services by use of a distinctive emblem. A red cross on a white ground was chosen out of compliment to Switzerland where the idea originated, the Swiss arms being a silver or white cross on a red ground. A second Convention in 1906 committed the signatory countries to pass legislation to protect the emblem and the words " Red Cross " or " Geneva Cross " ; the result was the Geneva Convention Act, 1911. A third Convention in 1929 took note that the emblem and also the Swiss arms were being imitated by private traders. A new Geneva Convention Act (c. 15) therefore forbids the emblem or the Swiss Arms or imitations thereof, or the words " Red Cross " or " Geneva Cross," to be used for trade without permission of the Board of Trade. Incidentally the Commonwealth of Australia is formally authorized to legislate comprehensively, if it wishes, on its obligations under the 1906 and 1929 conventions.

Agriculture.—There are various measures for relieving depression among farmers and for securing food supplies in emergency. The Beef and Veal Customs Duties Act (c. 8), certified as a " Money Bill " under the Parliament Act, exempts Empire products and is devised to work in with various Treasury orders under the Import Duties Act. The more comprehensive Livestock Industry Act (c. 50) develops two emergency policies: the quantitative regulation of imports of meat, to steady the supply situation, and the Exchequer subsidy to home producers of fat cattle. " With a view to the development and better organization of the livestock industry," it sets up a Livestock Commission and a Livestock Advisory Committee. The Commission, an independent body rather than one representing the producers, will (among other and more general duties) draw up for approval a scheme for payment of the cattle subsidy. It will draft orders for the control of livestock markets and make by-laws for their efficient and economic administration. The Reorganization Commission for Fat Stock had reported that there were too many live-stock selling centres. Power is now given to close redundant markets,

notwithstanding ancient charters and statutory rights, to modernize equipment, and to regulate by by-laws the number of auctions, the charges and the market hours. Another new departure is the experimental operation of central slaughter-houses. Here England and Wales were said to be lagging behind the great overseas meat-exporting countries. The experiment will be tried under "slaughter-house schemes." The schemes may also authorize local authorities to provide and carry on slaughter-houses. Lastly the Livestock Commission may draw up, and submit for departmental confirmation, "service schemes" for a variety of purposes—encouraging research and education, collecting statistics, insuring livestock, advertisement, grading or marking, improvement of breeds, and so on. Schemes are to be administered by "authorized bodies," who will make annual reports to the Commission.

Yet another measure, the Agriculture Act (c. 70), aims at improving the fertility of the soil and the health of the stock carried by the soil. Part I subsidizes the purchase and transport of lime and basic slag (with a minimum of two tons) for use by farmers and smallholders. The scheme is to be administered by a Land Fertility Committee; a levy not exceeding 2*d*. per ton may be collected from occupiers and from producers of lime or basic slag, to pay for research and instruction in the use and application of these substances. Part II seeks to insure growers of oats and barley against low prices; it also raises the limits of the quantity of wheat in respect of which "deficiency payments" under the Wheat Act of 1932 may be made at the full rate. Part III allows the Minister of Agriculture to make further grants for land drainage. Part IV deals with diseases of cattle. The local and central veterinary services are amalgamated into a State veterinary service for the whole of Great Britain. The Minister may, with Treasury approval, spend such sums as he thinks fit with the object of eradicating cattle diseases. Special payments are authorized for getting rid of bovine tuberculosis, and attention is paid also to poultry diseases.

The Milk (Amendment) Act (c. 66) extends the temporary period during which payments may be made to milk boards in respect of milk used for manufacture into butter, cheese, cream, condensed milk and milk powder. The period of contingent liability to repay advances is correspondingly prolonged. So also is the period for making Exchequer payments for schemes for increasing the demand for milk—such as the arrangements for milk for school children.

Two more statutes concern farmers in Scotland. The Agricultural Wages (Regulation) (Scotland) Act (c. 53) is to fix appropriate minimum rates of wages in various counties or groups of counties. It follows the model of the English Act of 1924. Both in England and Scotland there had been wages committees for different districts under the Corn Production Act of 1917; but these war-time arrangements were ended by the Corn Production Acts (Repeal) Act in 1921. The Sheep Stocks Valuation (Scotland) Act (c. 34) deals with the fact that on hill farms in Scotland sheep are usually "bound to the ground." It is useful to have a stock which is both acclimatized and "hefted" to the ground, *i.e.* familiar with the country and not likely to stray. Leases therefore generally provide that at termination the sheep stock shall be taken over by the incoming tenant or, failing him, by the landlord, the value to be settled by arbitration. Complaints having been made of the working of this system, the new Act obliges the arbiter to show in his award the basis of his valuation

and to state the amounts included for acclimatization, hefting or any other element taken into account. In proceedings under future leases the arbiter may take the decision of the sheriff on any point of law. Lastly, if the parties agree, questions of the value of sheep stock may be decided by the Land Court, instead of being submitted to arbitration in the old way.

Finance.—Along with the usual adjustments of customs duties and income-tax in the Finance Act (c. 54) there is this year a new impost, the national defence contribution, to be levied for the next five years on the profits made by trades and businesses carried on in the United Kingdom or carried on, whether personally or through an agent, by persons ordinarily resident in the United Kingdom. The tax is 5 per cent. on corporate bodies and 4 per cent. in other cases. Other features of the Act are the repeal of the male servant duty, provisions for the trade agreement with Canada which occupies a long schedule, a stiffening up of income-tax law to prevent its evasion by " bond-washing," repeal of the stamp duties on grants or patents of the honour or dignity of a duke, marquis, earl, viscount, baron, baronet or knight, and exemption from death duties for land transferred to the National Trust for Places of Historic Interest or Natural Beauty. The reduction of mechanically propelled vehicles duty on " tricycles neither constructed nor adapted for use nor used for the carriage of a driver or passenger," though expressed intelligibly enough for the experts, is one of those enactments which the ordinary reader would understand more easily if the statute-book were illustrated.

The Exchange Equalization Account Act (c. 41) increases from £350,000,000 to £550,000,000 the resources of the Account which is used for "ironing out" uncomfortable fluctuations in the exchange value of sterling. Further capital is authorized (c. 51) for developing the postal, telegraph and telephone systems. There is little need to summarize other finance legislation, such as the usual Appropriation Act (c. 55), Consolidated Fund Acts (cc. 7 and 20), Public Works Loans Act (c. 11) and Isle of Man (Customs) Act (c. 64). The Beef and Veal Customs Duties Act has already been mentioned under agriculture. The Statutory Salaries Act (c. 35) brings the pay of county court judges up to £2,000 a year. Fixed at £1,500 in 1865, it had some accretion under the system of war-time bonus ; this system had no statutory basis. Since 1865 these judges' jurisdiction has been continuously extended. Workmen's compensation and rent restriction enactments have added immensely to their labours. The metropolitan police magistrates, recruited from barristers of the same standing and exercising jurisdiction which has undergone like extension, are also to have £2,000. Certain officials such as the permanent Commissioner of Crown Lands and that picturesque figure Lyon King of Arms, are to have such salaries as the Treasury may determine ; these appear to be cases where the statutory maximum had been exceeded by the addition of the war-time bonus.

Local Government Problems.—The work of officials employed by local authorities is a career of increasing responsibility. To make the service attractive it is desirable that an officer, if transferred to a more important post under another authority, shall suffer no loss of pension rights. A statute of 1922 empowered local authorities to make discretionary superannuation schemes. Roughly two-thirds of the English authorities adopted the statute. Now a new Local Government Superannuation Act (c. 68) comes in its place ; all whole-time administrative, professional and clerical officers are to be included. The definitions in the Act

distinguish "officers" from "servants"; the latter may be manual labourers, road workmen and so on, equally deserving of a pension when their work is done, but less likely to move from one authority to another and more likely to be within the national system of contributory pensions. The Act makes special provision for certain classes such as female nurses, midwives and health visitors (for whom there is an earlier retiring age), teachers and clerks to justices. A similar Act is passed for Scotland (c. 69). Each Act provides for the combination of local authorities so as to establish joint superannuation funds on a scale which is actuarially sound. Each Act provides that superannuation rights will be retained by officials who move from the service of a local authority in the one country to the service of an authority in the other country. Each Act enables a married employee to allocate, on surrender of part of the pension rights, a part of the superannuation benefits to a surviving wife or husband.

Similar arrangements for allocating part of the superannuation benefits to a spouse or to a dependant are contained in a new Teachers (Superannuation) Act (c. 47). There is an extension of the period during which a teacher who is serving abroad may have his absence from home treated as pensionable (provided, of course, that he makes the necessary contributions); and the important class of educational organizers, who control or supervise the teachers of local authorities, is brought within the superannuation arrangements applicable to teachers themselves.

The County Councils Association is a voluntary body available for consultation and advice. Under a statute of 1890 county councils in England and Wales were allowed to subscribe to the amount of £31 10*s*. a year. This was raised to £42 in 1920; it is now further raised to £157 10*s*. (c. 27). The Local Government (Members' Travelling Expenses) Act (c. 36) extends a principle introduced by the Local Government Act of 1929 and re-enacted by the consolidating Act of 1933. County councils could pay the travelling expenses of their members and committeemen but could not pay those of representatives appointed to join them in guardians committees and sub-committees by borough or district councils. These anomalies are now removed and the principle is applied also to the members of assessment committees.

Some of the activities of local authorities have already been discussed under "Welfare and Social Services." The burden of paying for these services is shared between central and local authorities. The Local Government (Financial Provisions) Act (c. 22), which shows the adjustment of the burden, arises out of the Local Government Act, 1929, whereby (amongst other changes) trade premises were relieved of liability for local rates. This "de-rating" greatly diminished the income of town and county councils. The 1929 Act also abolished the old "percentage grant" system and substituted a system of grants based not on the expenditure of a local authority (which might have meant that the richest districts got the most help) but on their needs. For this purpose there was a formula which gave weight to various factors: the amount of local unemployment, the number of children under 5 years of age in the local population, the rateable value of the locality, and so on. Lest the switch from the old system to the new should dislocate local government finance, the change was made by successive adjustments over a first, second, third, fourth and fifth "grant period." The new Act revises the arrangements in the light of working experience. There is a like Act (c. 29) for Scotland.

A short Rating and Valuation Act (c. 60) continues certain provisions in an Act of 1928 (18 & 19 Geo. V. c. 8) regarding deductions in the valuation of small properties and variable allowances available for the owners. Without this continuance the scales in the 1925 Act (15 & 16 Geo. V. c. 90) would have automatically revived when the new valuation list came into force on April 1, 1938.

Another continuance is effected by the Unemployment Assistance (Temporary Provisions) (Amendment) Act (c. 10). This prolongs until April 1, 1937 (the " second appointed day "), the compensation payable to local authorities which were left with an unexpected responsibility for able-bodied unemployed persons not in insurable occupations. This was an adjustment resulting from the decision to postpone the " second appointed day " on which the Unemployment Act, 1934, would take full effect.

Prevention of Cruelty to Animals.—The existing law restricted the export of horses unless a veterinary inspector certifies them capable of being conveyed and disembarked without cruelty and of being worked without suffering. An amending Exportation of Horses Act (c. 42) protects the older and work-worn animals. Before they are taken abroad the certificate must also express the inspector's opinion that they are not over 8 years of age and not under certain specified values. There is a saving for performing and stud animals.

This was a private member's Bill. So also was that which became the Cinematograph Films (Animals) Act (c. 59), which prohibits the exhibit or distribution of films in the production whereof suffering may have been caused to animals. Courts, without prejudice to any other method of proof, may infer from the film that a scene was so " organized or directed " as to " involve the cruel infliction of pain or terror on an animal or the cruel goading of an animal to fury."

Miscellaneous Scottish Laws.—Acts relating to agricultural wages, sheep stocks, maternity services and local government finance in Scotland have already been mentioned. Two others remain to be noticed. The Methylated Spirits (Sale by Retail) (Scotland) Act restricts the thirst for an unnatural and dangerous stimulant more readily purchasable by the poor than the national drink which has its price raised by a high excise duty (c. 48). There was a precedent in s. 4 of the Intoxicating Liquor Act (Northern Ireland), 1923,[1] which required retailers to be licensed and which made it an offence to use methylated spirits for drinking. The Scottish Act (which applies also to surgical spirit) attaches conditions to the granting of a licence ; retailers must be registered on a local authority's list (unless they are already authorized sellers of poisons within the meaning of the Pharmacy and Poisons Act, 1933) ; records must be kept of sales ; bottles must be labelled ; and a " signed order " must specify the purchaser's address, the quantity bought and the purpose for which it is required ; the seller must be reasonably satisfied that the signature is genuine.

The Public Records (Scotland) Act (c. 43) carries forward the programme of unifying and centralizing the custody of Scottish archives. An Advisory Council is set up. Court records from the High Court of Justiciary and Court of Session are to go to the official Keeper of the Registers and Records of Scotland in accordance with rules of court.

[1] 13 & 14 Geo. V. c. 12 (N.I.) ; see *Journ. Comp. Leg.*, Third Series, vol. vii, pt. ii, p. 19.

The sheriff court records and the justice of the peace records can be directed into the Keeper's custody by specific order; till so transmitted they remain the responsibility of the sheriff and the clerk of the peace for the county respectively; these officers are to report on the accommodation, age and condition of their records and the arrangements for their preservation, indexing and inspection, etc., as required. The Act mentions nine historic documents now to be surrendered by the Record Office in London to the Keeper in Edinburgh. Apart from the national sentiment justifying the transfer, it could be suggested that, when Edward III renounced all claim to the dominion of Scotland in the Treaty of Northampton in 1328, he undertook to restore all documents relating to the freedom of Scotland, and that England was only now making an honest man of him. There is permissive authority to transfer to Edinburgh any other records belonging to the Sovereign which relate exclusively or mainly to Scotland and, with the Keeper's consent, any records of Scottish local authorities. There is machinery whereby the Keeper can (subject to safeguards) dispose of documents not worth preserving.

Local and Private Acts.—The Local Acts of the session numbered 130; there was no Private Act. The supply of gas, water and electricity, the development of transport facilities and fresh powers in local government constitute, as usual, the basis of much of this law-making. A notable attempt to standardize and classify the common-form clauses and to review the procedure and local legislation may be studied in House of Commons Papers 162 of 1936 (common-form clauses) and 112 of 1937 (procedure).

As samples of this progressive experimentation by local authorities, we see Coulsdon and Purley taking power to provide rooms and apparatus for educational cinematograph films, Sheffield taking power to sell books, pictures and museum specimens, and the London County Council taking power to establish and conduct an hotel for training cooks and waiters. A clause forbidding the construction of cellars of dwelling-houses below subsoil water level has been familiar; Ilford extends the restriction to the cellars of shops. Clauses requiring the registration of premises for sale or manufacture of ice-cream have been familiar; Poole applies them to premises for sale or manufacture of ice. Hairdressers and barbers must now register their premises in Newcastle, Rotherham, Southampton and West Ham. This is the kind of provision which may presently be extended by public Act to the whole country. Precautions against derelict petroleum containers are insisted upon at Rochdale and Southampton. Bath obtains novel protection for its stately streets and crescents and its eighteenth-century associations. There is to be a panel of six persons (two fellows of the Royal Institute of British Architects, two of the Chartered Surveyors' Institution and two justices of the peace), and also a standing committee of three (one from each of the three pairs already mentioned). Drawings of the elevations of new buildings, or of alterations of architectural features in existing buildings, or of chimneys over 45 feet high, are to be submitted to the City Council, which may approve them conditionally or unconditionally or disapprove them if they would "disfigure the locality" by reason of height, design or materials. Aggrieved persons can appeal to the standing committee. As for preserving old houses the corporation is to make a list of those erected before 1820 and scheduled as "protected buildings." There is to be a "special tribunal," consisting of the three members of the standing committee

and two persons nominated by H.M. Commissioner of Works. Anyone legally interested in a building may appeal to the special tribunal against its inclusion in the list. The list may be extended from time to time. Before anyone carries out any alteration to a " protected building," he must submit plans, elevations and specifications to the corporation, which can approve conditionally or unconditionally or can veto the proposal. An aggrieved person has a right of appeal to the special tribunal. Old buildings sometimes come down in the world. The Act authorizes the corporation to advance money to the owner or occupier of a protected building to assist him in maintaining, repairing, restoring or improving it. All this is quite new law.

Other Local Acts validate marriages solemnized in churches and chapels not authorized for the purpose, enlarge the powers of the National Trust (so that local authorities may make grants and contributions) and modernize the powers of ancient institutions. The London charity known as the Magdalen Hospital is allowed to get rid of some distressingly old-fashioned words in its corporate name.

Church Assembly Measures.—Three measures under the Enabling Act of 1919 received the Royal Assent after obtaining the necessary affirmative resolutions in each House of Parliament.

Queen Anne's Bounty has to make payments to the incumbents of benefices and, in particular, to distribute to them the dividend received on their behalf from the new " tithe stock." Some of these payments arise from investments on behalf of particular benefices, others are charged on the corporation's common fund. The Bounty has also the duty to receive payments from incumbents for their liability under the Clergy Pensions Measure, for their assessments for dilapidations, mortgage repayments and so forth. A new Queen Anne's Bounty (Powers) Measure (No. 1) enables the net income payable to a beneficiary to be ascertained and paid to him, with all deductions adjusted, in four equal quarterly payments. The incumbent is to be notified of the estimated net income and there is provision for annual review and any necessary revision. Queen Anne's Bounty also is to receive tithe stock for ecclesiastical corporations (deans and chapters) with whose incomes the Ecclesiastical Commissioners are concerned. The Measure arranges for the transfer of moneys, stocks or securities in these cases from the Bounty to the Commissioners for more convenient administration.

The House of Laity (Co-opted Members) Measure (No. 2) allows the House of Laity, at present consisting of 343 members, to co-opt ten more who shall be members until the next election of that House. This will enable various official interests—*e.g.* the First Church Estates Commissioner, the Treasurer of Queen Anne's Bounty and the Chairman of the Pensions Board—to be usefully represented at the deliberations of the House.

The Southwark Cathedral Measure (No. 3) is required because the power of the Cathedral Commissioners to frame schemes either for ancient cathedrals or for " parish church cathedrals " did not quite fit the case of Southwark. In effect the Measure provides and confirms such a scheme (with a Chapter which in one capacity will be known as " the General Chapter " and in another as " the Administrative Chapter " and with a Cathedral Council, etc.) as the Cathedral Commissioners might have evolved had their powers permitted.

Delegated Legislation.—The number of Statutory Rules and Orders

(*i.e.* the Orders in Council and departmental rules, regulations, orders, etc., officially registered under s. 3 of the Rules Publication Act, 1893) for the calendar year 1937 is 1,231, the lowest total for five years and one frequently exceeded in the pre-war period.

The contents of the officially published annual volume show the elaboration of those details which statutes are content to omit. Here are the Orders in Council for adapting Acts of Parliament (a schedule of 20 pages) so as to make them conform to the Government of India Act, and the similar Orders for adapting the laws of India (260 pages) and Burma (20 pages). Those who regard the text of a statute as something far too sacred to be tampered with by a mere rule or order must admit that, if the Government of India Act had been obliged to provide directly for all these consequential adaptations, its preparation and passage might have been indefinitely delayed. There is no need to enumerate the alphabetical contents of the volume—air navigation, ancient monuments protection, barley and oats, customs (including the new import duties), diseases of animals, plants and fish, education, extradition, firearms, housing, and so forth. Turning the pages at random, one notes the Order in Council approving the threepenny bit of mixed metal " with a representation of the plant commonly known as ' thrift ' " or the long new Egypt Order in Council made " by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1890 and 1913, or otherwise in His Majesty vested." Of more practical significance are the regulations for traffic in London and elsewhere: speed limits, one-way streets, parking places, and the like. It would be surprising if the motorist consulted the official volume of Statutory Rules and Orders to find out where he may park his car in London; roadway signs tell him what he wants to know. But these laws for breach of which the citizen may be punished must somewhere be properly recorded. Although in 1932 the Committee on Ministers' Powers drew attention (hitherto without result) to several points where the Rules Publication Act of 1893 badly requires amendment, the system of publicity experimentally evolved by that statute nearly fifty years ago is something of which its creators have no need to be ashamed.

2. JERSEY.

[*Contributed by* C. W. Duret Aubin, Esq., *H.M. Attorney-General.*]

During the year 1937 thirty-two enactments reached the Insular Statute-book, twenty-five being Acts of the States which received the sanction of His Majesty in Council, and seven being Permanent Regulations made under the powers contained in basic Acts so sanctioned. Of the thirty-two measures, the following six alone call for comment:

Probation.—By L13, the " Loi sur l'atténuation des Peines," 1896 (commonly known as the First Offenders Act), is repealed, and in its place there is enacted a Law instituting a system of probation upon the United Kingdom model, and providing for the appointment of probation officers, male and female.

Aliens.—By L15, the provisions under the title " Etrangers " contained in the Code of Laws confirmed by Order of His Majesty in Council dated March 28, 1771 (under which provisions the control of aliens had continued to be effected), are repealed and there is substituted therefor a modern code, " Loi sur les Etrangers," based upon United Kingdom law and practice. By this Law the control of immigration is left in the hands of

the Lieutenant-Governor, authority to grant labour permits and responsibility for registration being transferred to a Committee of the States of Jersey. The power to deport, in any case deemed to be conducive to the public good, is vested in the Lieutenant-Governor, and the powers of banishment and of repatriation possessed by the Royal Court of Jersey are specifically saved.

Accident Assurance.—By L19, the Law relating to Compensation for Accidents to Workers (1935) is amended so as to bring within the scope of the Act all accidents suffered by registered workers, whether such accidents are accidents " arising out of and in the course of " employment or not.[1]

Import Duties.—By L24, the Import Duties (Jersey) Law, 1932, which had originally been enacted for a period of five years, is extended for a further period of five years from December 31, 1937.

Income-tax.—By L25, the Insular Income-tax Law is renewed for a period of five years from January 1, 1938, the existing proviso that the rate of income-tax shall not exceed 1s. in the £ being retained.

Electricity.—By L31, statutory powers are granted to " The Jersey Electricity Company Limited," a public utility company of which the States of Jersey have acquired control by reason of the purchase of the whole of the ordinary share capital.

3. NORTHERN IRELAND.

[*Contributed by* SIR ARTHUR S. QUEKETT, K.C., LL.D.]

During the year 1937 twenty-eight public general Acts were passed by the Fourth Parliament of Northern Ireland. Twenty-four of these belong to the fourth session (November 24, 1936, to November 9, 1937), and the remainder to the fifth session, which began on November 23, 1937. One local Bill became law in the fourth session.

The annual volumes of the statutes for 1937 and onwards are related to the Acts passed in each calendar year, irrespective of Parliamentary sessions. It may be noted that such an arrangement has always been adopted, as respects Northern Ireland, for the purpose of the annual summary contributed to this *Journal*.

Industrial Development.—Under the New Industries (Development) Act (c. 11), Government assistance may be given by the Ministry of Commerce, after consultation with an advisory committee, in cases where a person or body of persons sets up an industrial undertaking in Northern Ireland after the passing of the Act. The Ministry and its committee must be satisfied that the undertaking promises to make an addition to the existing sum total of employment ; that this addition will be a substantial one ; and that the additional employment will not be ephemeral but continuing. The Ministry, in considering applications, must also have regard to any circumstances which may render it desirable that an undertaking should be established in some particular locality.

The assistance takes the form of grants made, with the consent of the Ministry of Finance, out of moneys voted by Parliament, and loans made by the latter Ministry, on the recommendation of the Ministry of Commerce, either out of the Consolidated Fund or the Government Loans Fund. A grant may be made in respect of the cost of acquiring a site, and in that case it is to be made by means of annual payments for a

[1] Cf. *Journ. Comp. Leg.*, 3rd Series, vol. xix, pt. ii, p. 18.

period not longer than twenty years, being the equivalent of a reasonable annual rent in respect of the site. A grant may also be made in respect of the rent of existing premises taken on lease, and a grant of that class will terminate at the end of a maximum period of five years. Loans under the Act may be made in respect of the cost of adapting existing premises taken on lease; or in respect of the purchase price and cost of the adaptation of existing premises; or in respect of the cost of erecting premises. A loan of each class is to be free of interest in respect of an initial period of five years.

The Act also provides that, where a grant or loan has been made, the premises of the undertaking can be exempted from local rates if the local authority think fit.

Some of the provisions of the Act are reproduced from the New Industries (Development) Act of 1932, which ceased to operate after October 1936.[1] The new Act is framed in wider terms than the old, under which Government assistance was confined to grants in respect of the cost of acquiring sites, and the exemption from rates was limited to cases where such grants had been received. The new Act, like the old, is temporary in operation, as it debars the Ministry of Commerce from making grants or recommending loans except in a case where the application comes in within five years after the passing of the Act.

Further opportunities for Government assistance are provided by the No. 2 Act of 1937 (c. 2 of the fifth session). The Ministry of Commerce may make grants towards any sums payable in respect of a new industrial undertaking by way of income-tax during a period not exceeding five years from the establishment of the undertaking. The purposes for which loans may be made are extended so as to include capital requirements other than those enumerated in the earlier statute, and these extended facilities for loans are made available to existing, as distinct from new, undertakings in certain cases. The aggregate amount available for loans—which in the earlier Act had been limited to £200,000—is extended to £750,000. The Ministry of Finance, moreover, is empowered to guarantee the amount of a loan raised for any of the purposes for which loans may be made instead of itself making the loan.

Manufacture and Sale of Ice-cream.—The provisions of c. 7 on this subject fall into three groups.

The first group deals with requirements as to the quality of ice-cream sold or intended for sale. The penalties of the Sale of Food and Drugs Acts are made applicable to any person who sells ice-cream which (*a*) does not contain a prescribed percentage of solids including milk fat; or (*b*) does not contain a prescribed percentage of milk fat; or (*c*) contains any fat other than milk fat; or (*d*) contains preservatives other than those permitted by regulations made under the Public Health (Regulations as to Food) Act.

Similar penalties are imposed for selling, as if it were ice-cream, any frozen commodity which does not comply with the requirements laid down for ice-cream. The Ministry of Agriculture is also empowered to make regulations prescribing standards to be complied with, and these standards may deal with the relation between the volume and the weight of the ice-cream and with its bacteriological examination.

The next group consists of provisions requiring local sanitary authorities to regulate the manufacture and sale of ice-cream. Premises used

[1] *Journ. Comp. Leg.*, Third Series, vol. xvi, pt. ii, p. 18.

for manufacture of ice-cream for sale, or for its sale, must be registered by the owner or occupier with the sanitary authority. There are also provisions as to the conditions to be observed regarding the manufacture, sale and storage of ice-cream. The provisions in this group are based upon various local Acts which have been in force in large centres of population, not only in Northern Ireland but in other parts of the United Kingdom. The new system, however, is not local, and it is to apply in rural as well as in urban districts. It may be noted that the provisions which appear in some of the local Acts, requiring the personal registration of manufacturers and vendors of ice-cream as well as registration of their premises, have not been included.

The enactments of the third group are intended to establish a special designation for adoption by traders wishing to embark upon the sale of ice-cream of such high quality as will entitle them to use that designation. With this object, persons are prohibited from selling, or offering or exposing for sale, any ice-cream under the designation " premium," except in accordance with a licence granted by the Ministry of Agriculture and dependent upon the observance of conditions to be prescribed by that Ministry.

A further provision enables the Milk Fund, which was set up by the Milk and Milk Products Act of 1934, to be available for contributions towards appropriate schemes " for the encouragement of the purchase of ice-cream and other foodstuffs used for human consumption, in the manufacture of which milk of Grade A, Grade B or Grade C (within the meaning of the said Act) has been used."

Road Construction.—The Roads Act (c. 14) was passed owing to a decision of the Government to undertake the construction of a by-pass road, so that traffic might avoid a congested area on the east side of Belfast.

The Act empowers the Ministry of Home Affairs, with the approval of the Ministry of Finance, to construct any new roads which appear to the former Ministry to be required for facilitating road traffic. The power was not a new one, because, under the Development and Road Improvement Funds Act, 1909, it had been vested in the Road Board, and it was subsequently transferred to the Minister of Transport, whose functions in Northern Ireland reside in the Ministry of Home Affairs. The cost of constructing such roads is to be defrayed out of the Road Fund (Northern Ireland), either directly or by means of money borrowed on the security of that Fund. A new road made by the Ministry is to become a public road and, on completion, to be vested in the council of the county, county borough or urban district in which it is situate ; and it will be eligible for assistance from the Road Fund for maintenance purposes. Such a road, however, differs from other public roads in one important respect, namely, that communication between it and any other roads, paths, lands or premises may not be made without the approval of the Ministry.

The Act effects a simplification in the procedure for the compulsory acquisition of land. Under the statute of 1909, the Ministry of Home Affairs would have to obtain an order from the Ministry of Finance (to whom the powers of the Development Commissioners had been transferred), and by the order the compulsory provisions of the Lands Clauses Acts would have been put in force. The Northern Ireland Act adopted the procedure of a " vesting order," to be made by the Ministry of Home Affairs after notice to interested parties and the consideration of

objections, thus following the precedents of the Roads Improvement Act, 1928, and the Local Government Act, 1934.[1]

The Act contains two amendments of law which are not connected with the construction of new roads. In the first place, it requires sanitary authorities who break up county council roads for sewerage purposes to repair the roads to the satisfaction of the county council, and provides that, in the event of default, the work may be undertaken by the county council at the expense of the sanitary authority. This provision removes an anomaly by bringing sanitary authorities into line with other public undertakings. A further amendment of law assigns to courts of summary jurisdiction the duty of assessing the compensation to be paid, where damage is done by a county surveyor or road contractor in obtaining materials for the repair of roads and the amount of the compensation is in dispute. Apart from this amendment, the matter would have been one for determination by three substantial householders selected in the manner prescribed by the Grand Jury Act of 1836.

Agricultural Products.—The Milk and Milk Products Act, c. 21, makes various amendments of the principal Act of 1934. It increases the amounts of the equalization payment and the bonuses which are paid out of the Milk Fund in respect of milk produced in Northern Ireland and delivered to creameries for manufacture into butter, and it provides for a Parliamentary grant to the Milk Fund of a sum not exceeding £65,000 for each of four specified years. It also provides that a licence under the principal Act shall not be required for sales of butter by persons who obtain their supplies from producers in cases where the butter has been made from milk produced by the producers' own cows.

The Marketing of Eggs Act, c. 22, enables the Ministry of Agriculture to make rules providing that prices fixed by reference to wholesale dealers' prices shall apply to the purchase by other persons, or classes of persons, of eggs for resale.

Horse Breeding.—The Ministry of Agriculture had power, under an Act of 1926, to regulate, by licence, the ownership or control of stallions of three years old or upwards. By c. 5 this power is extended so as to apply to stallions of two years old.

Rural Housing Loans.—The Labourers' Cottages (Loans) Act (c. 19) increases the Parliamentary grant in aid of the repayment of loans borrowed by rural district councils for the purposes of schemes for the provision of cottages and allotments under the Labourers Acts.

Social Services.—The benefits of voluntary insurance for widows', orphans' and old age pensions are extended by c. 23 to persons with small incomes, whether working on their own account or not, who have not the qualification of insurable employment which was previously essential to insurance under the Contributory Pensions Act. The extending Act is parallel to the statute which applies in Great Britain, and it contains provisions under which reciprocal pension arrangements are made with Great Britain.

The National Health Insurance (Juvenile Contributors and Young Persons) Act (c. 1 of the fifth session of this Parliament) empowers the Governor, by Order in Council, to apply a measure passed for Great Britain in the same year. The purpose of the legislation is to provide medical benefit under the National Health Insurance Act, 1936, to boys

[1] See *Journ. Comp. Leg.*, Third Series, vol. xii, pt. ii, p. 23, and vol. xviii, pt. ii, p. 27.

and girls who on leaving school become employed before reaching the age of 16. It thus bridges the gap in medical supervision which previously existed between the school medical service and the commencement of full insurance under the Act of 1936.

The Poor Relief (Amendment) Act (c. 20) extends the classes of able-bodied persons to whom outdoor relief may be granted. The Act also provides that occupiers of land of a net annual value above £4 may be relieved by admission to the workhouse and not otherwise. A further provision enables the Ministry of Home Affairs, when satisfied that exceptional distress exists in any poor law union, to authorize the Board of Guardians to grant outdoor relief to poor persons who would otherwise be excluded from receiving outdoor relief by the operation of the last-mentioned provision.

The Unemployment Assistance (Temporary Provisions) Act (c. 1) effected the last of a series of financial adjustments which were necessary by reason of the postponement of the " second appointed day " for the purposes of the Unemployment Act of 1934. April 1, 1937, was fixed as that day, and, by c. 12, new provision was made with respect to the contributions to be paid by local authorities towards the cost of unemployment assistance services. Under the original conception of the Act of 1934, these contributions were measured in terms of a rate in the pound and were to be paid to the Unemployment Assistance Fund. In the Act of 1937 the actual amounts of the annual contributions are specified, and they are to be paid to the Ministry of Finance and appropriated in aid of the Unemployment Assistance vote.

Hoardings and Advertisements.—The Advertisements Regulation Act (c. 10) supersedes the Act of 1907 (7 Edw. 7, c. 27), which had been ignored on the part of local authorities in Northern Ireland, and introduces a set of more ambitious provisions. It empowers the local authority—the council of a county, county or non-county borough, or urban district—to make " safety " by-laws and " amenity " by-laws. Safety by-laws are to be made for the purpose of preventing danger to the public from hoardings and similar structures for the display of advertisements. Amenity by-laws are to regulate, restrict or prevent such erection or exhibition of advertisements as would disfigure or injuriously affect (*a*) the amenities of a public park or the natural beauty of a landscape ; or (*b*) the view of rural scenery from a highway, railway or public place ; or (*c*) the amenities of any town or village in a rural district ; or (*d*) the amenities of any historic or public building or monument or of a place frequented by the public on account of its beauty or historic interest.

These provisions do not apply to the erection or exhibition of advertisements in or upon a railway station, yard, etc., belonging to a railway company.

The Act empowers the local authority, after notice, to remove advertisements erected in contravention of their by-laws. It also requires a local authority to pay reasonable compensation for any loss sustained as a direct result of any by-laws made under the Act. If any question arises whether compensation is so payable or as to the amount thereof, the question is to be decided by the county court ; but a right to compensation is not to arise in respect of any advertisements first erected or exhibited after the day on which the Bill for the new Act was published.

Ancient Monuments, Archæological Finds and Excavations.—The Ancient

Monuments Act (c. 6) amends the principal Act of 1926[1] and makes further provision for the preservation of objects of archæological or historical interest. It pays a compliment to the Ancient Monuments Advisory Committee by changing its title from a committee to a council. The Committee had recently completed the task laid upon it, by s. 5 of the Act of 1926, of drawing up lists of the ancient remains in private ownership which were deserving of being scheduled for special observation. The amending Act also enables curators of museums in Northern Ireland to be added to the Council.

Power is given to persons authorized by the Ministry of Finance to enter, for the purposes of inspection, upon land which the Ministry has reason to believe contains an ancient monument.

The Act requires archæological excavators to obtain a licence from the Ministry so as to prevent excavation by irresponsible or untrained amateurs. It was remarked in support of the Bill that " the digging up of Tara in search of the Ark of the Covenant is typical of the evil that may arise by uncontrolled excavation."

The provisions of the principal Act as to archæological finds are extended by requiring, in addition to a report of the circumstances of the finding and character of the object, the production of the object unless it is of such a nature as not to be readily portable ; and the finder must not, until after twenty-one days from the report, part with the possession of the object without the consent of the Ministry.

The Ministry may undertake, or assist in, or defray or contribute towards the cost of, any work in relation to an ancient monument of which it is not the owner or guardian, in a case where the work is such as the Ministry would be empowered to do if it were the guardian of the monument.

The Act of 1926 allowed the transfer of monuments from county councils to the Ministry. It was found, however, that there were various monuments of local interest but not of sufficient importance to be deserving of maintenance by the State, and under the amending Act these may be transferred to county councils.

Petroleum-spirit Licences.—The enactments concerning the issue of licences for the storage of petroleum spirit did not provide for the transfer of a licence if, during its currency, the premises were transferred from one person to another. C. 4 remedies this omission by empowering the licensing authority to transfer a petroleum-spirit licence upon payment of a fee of 2*s.* 6*d.*

Taxation and Finance.—The Finance Act, c. 24, enacts a new scale of reduced duties of excise on licences for mechanically propelled vehicles, and makes some amendments of the law relating to those duties. It also extends a previous enactment as to the charging of entertainments duty at a reduced rate for certain entertainments, *e.g.* dramatic performances, performances of dancing or music, lectures, variety entertainments, circuses and displays by any of the Forces of the Crown or the Royal Ulster Constabulary.

The Finance (No. 2) Act (c. 17) reduces the amount of the fee for a motor-car driving licence from 10*s.* to 5*s.*

The Exchequer and Financial Provisions Act (c. 18) extends the limit upon the amount of money which may be issued for Government loans, and the period for which money may be borrowed to defray Consolidated

[1] *Journ. Comp. Leg.*; Third Series, vol. x, pt. ii, p. 29.

Fund charges in respect of the expenses of the Bann drainage scheme. The same Act also confers upon the Ministry of Finance a general power to extend the currency of Ulster savings certificates.

Adjustment of Statutory Salaries.—By an Act of the year 1877 the salaries of the county court judges were charged upon the Consolidated Fund and fixed in amount. For some years a non-statutory " cost of living bonus " was paid to the judges out of moneys voted by Parliament. By the County Court Judges (Salaries) Act (c. 15) provision is made that the annual salary charged on the Consolidated Fund shall be of an amount which represents the former statutory salary *plus* the bonus.

Law Reform.—It has been remarked that the setting up of a separate legislature for Northern Ireland has tended to produce uniformity of general law as between that country and England. The Law Reform (Miscellaneous Provisions) Act (c. 9) affords an instance of this tendency, its object being to put in force in Northern Ireland various reforms of law which have been accomplished by statute as respects England.

Part I of the Act provides for the establishment of a " real representative " on the death of a person in whom real estate is vested. Difficulties had arisen owing to the absence of such a provision in the administration of the estates of deceased persons of which real property forms a part. In England, by the Land Transfer Act, 1897, real estate was made liable to be administered for payment of a deceased person's funeral and testamentary or administration expenses and debts in the same manner as personal estate. Part I of the Northern Ireland Act is based upon the provisions of the Land Transfer Act.

Part II alters the previously existing law so as to ensure that, with regard to a married woman's capacity to contract, right to sue, liability to be sued or to be made bankrupt, she shall in all respects be in the same position as an unmarried woman or a man ; that the peculiar provisions as to a married woman's " separate property " shall be eliminated from the law ; and that a husband shall not be liable to be made responsible for his wife's ante-nuptial debts, contracts or wrongs, or for any wrongs committed by his wife during marriage. This follows what was done in England by the Law Reform (Married Women and Tortfeasors) Act, 1935. The enactment regarding a married woman's separate property provides that a will executed after the new Act comes into operation is to be void, in so far as it purports to attach to the enjoyment of any property by a woman any restriction upon anticipation or alienation which could not have been attached to the enjoyment of that property by a man. It also makes such a restriction void, even in the case of a will executed at an earlier date, if the person who made the will survives for a specified period after the new Act comes into operation. Under the corresponding English law, that period was specified as a period of ten years, *i.e.* up to December 31, 1945. The Northern Ireland Act makes it eight years from the commencement of the Act, so that it will end at the same time as the corresponding period fixed for England.

Part III alters the law by providing that, subject to certain exceptions, all causes of action subsisting against, or vested in, a person who has died shall survive against, or for the benefit of, that person's estate. It also extends the class of dependants of a deceased person entitled to benefit under the Fatal Accidents Acts. The law of England was changed in the same way by the Law Reform (Miscellaneous Provisions) Act, 1934.

Part IV makes changes in the rule of law which applied to the recovery

of damages where two or more persons jointly committed a wrongful act, and in the law relating to the right to recover interest in civil proceedings. Similar changes were made in England by the statutes of 1934 and 1935 above-mentioned.

Arbitration Law.—The purpose of the Arbitration Act (c. 8) is to modernize the law as to the determination of differences by arbitration which is to be found in statutes of the years 1698, 1840 and 1856. It is clearly of advantage that the law in Northern Ireland in this matter should be uniform with the English law, in view of the importance of commercial intercourse between the two countries. This is particularly so in the case of insurance, as commercial policies usually include a clause to the effect that, should a dispute arise, it shall in the first place be submitted to arbitration—which formerly meant, in Northern Ireland, arbitration under an antiquated code. The correspondence of the law in the two countries has a further advantage, in that it makes the decisions of English courts available in Northern Ireland, and enables the standard text-books on arbitration to be used.

The enactments in the older statutes dealt only with cases in which the authority for the arbitration is derived from an order or rule of a competent court of law. No provisions had been enacted for general operation in cases where an arbitration takes place by reason of an agreement made between parties. The necessary provisions had to be set out in the particular agreement relating to the matter in which arbitration proceedings might be contemplated—the usual form being to apply certain enactments of the Common Law Procedure Amendment Act (Ireland), 1856. The primary object of the new Act is to make general provision regarding submissions to arbitration. Having done this, it proceeds to enable those provisions to be applied, by means of rules of court made by the Supreme Court rule-making authority, to any arbitration set up by the order of a court in a matter of account—thus replacing the enactments of the Act of 1856.

The Act follows in principle the English law as contained in the Arbitration Acts of 1889 and 1934.

Coronation Year Arrangements.—The statutory date for the election of municipal corporations and other urban local authorities in Northern Ireland is May 15, and the day of the Coronation of His present Majesty was May 12, falling in the same week. The Local Government (Postponement of Elections) Act (c. 3) postponed the election until some date later in the year, to be fixed by Order of the Governor in Council. The election day was not specified by the Act, because a visit of Their Majesties to Northern Ireland in the Coronation year was anticipated, but its exact time could not be known when the Local Government Bill was under consideration in Parliament. The Royal visit took place on July 28, and the election day was fixed as October 15.

4. EIRE.

[*Contributed by* A. Denis Pringle, Esq., *Barrister-at-Law.*]

Public Acts passed—43. Private Acts passed—3.

Constitution.—Although not part of the ordinary Statute Law, the enactment, by a plebiscite of the people, of a new Constitution is obviously of such importance as to require consideration, although it is not possible, in the space available, to deal with its provisions at all fully. The Con-

stitution of Ireland (in Irish *Eire*) was enacted by the people on July 1, 1937, and it came into operation on December 29, 1937, as from which date it took the place of the former Constitution of the Irish Free State (enacted in 1922), which, during the fifteen years of its existence, had undergone such radical amendments as to make it almost unrecognizable from its original form.

By Art. 1 the Irish nation affirms its "inalienable, indefeasible, and sovereign right" to choose its own form of government, to determine its relations with other nations, and to develop its life, economic and cultural, in accordance with its own genius and traditions. By Art. 2 the national territory is stated to consist of the whole island of Ireland, its islands and the territorial seas, but this is limited by Art. 3, which provides that "Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory, the laws enacted by that Parliament shall have the like area and extent of application, as the laws of Saorstát Eireann and the like extra-territorial effect."

By Art. 8 the Irish language is the national language and "the first official language," but English is recognized as a "second official language," and provision may be made by law for the exclusive use of either language for any one or more official purposes, either throughout the State or in any part thereof. Provision for a new head of the State is made by Art. 12, which deals with the election of a President of Ireland. He is to be elected by a direct vote of the people and shall hold office for seven years. The President, on the nomination of Dáil Eireann, appoints the Taoiseach, or Prime Minister, and the other members of the Government, he summons and dissolves Dáil Eireann on the advice of the Prime Minister, signs all Acts passed by the Oireachtas, and the supreme command of the defence forces is vested in him. He has power, after consultation with the Council of State, to communicate with the Houses of the Oireachtas by message or address on any matter of national or public importance. He is not answerable to either House or to any court for the exercise of the powers and functions of his office, but in the event of his impeachment, his conduct may be reviewed by the Dáil. The Oireachtas under the new Constitution consists of the President and two Houses, Dáil Eireann and Seanad Eireann (Art. 15). The Senate has power to propose amendments of Bills, but the Dáil may either refuse or accept them. A Bill (other than a Money Bill) may be initiated in the Senate and, if passed, shall be introduced in the Dáil. Art. 26 contains provisions for reference to the Supreme Court of questions as to whether a Bill is repugnant to the Constitution, and the following Article deals with a Referendum to the people. The executive power of the State is vested in the Government, consisting of not less than seven and not more than fifteen members, and of which the Prime Minister is the head. War shall not be declared and the State shall not participate in any war, save with the assent of the Dáil. By Art. 29, which deals with international relations, Ireland "affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality," and its adherence to "the principle of the pacific settlement of international disputes by international arbitration or judicial determination," and it accepts "the generally recognized principles of international law as its rule of conduct in its relations with

other states." All international agreements must be laid before the Dáil, and the State is not bound by any international agreement involving a charge on public funds (other than agreements of a technical and administrative character) unless approved of by the Dáil.

A Council of State " to aid and counsel the President " is provided for in Art. 31, and Arts. 34–7 deal with the administration of justice in public courts established by law by judges appointed by the President. The judges are declared to be independent in the exercise of their judicial functions and subject only to the Constitution and the law, and a judge of the Supreme Court or High Court may only be removed from office upon a resolution passed by both Houses. An important provision is contained in regard to the trial of offences in Art. 38 (3), whereby it is provided that special courts may be established by law for the trial of offences, where it may be determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order. Under the heading of " Fundamental Rights," it is declared that " all citizens shall, as human persons, be held equal before the law " ; titles of nobility shall not be conferred by the State ; the State guarantees in its laws to respect and, as far as practicable, to defend and vindicate the personal rights of the citizen ; no citizen shall be deprived of his personal liberty save in accordance with law ; *habeas corpus*, the inviolability of the citizen's dwelling, the right of free speech, peaceable assembly and the right to form associations are preserved ; but, in regard to the right of free speech, there is the following proviso : " The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State."

Under Art. 41 the State recognizes the family as the natural, primary and fundamental unit group of society, and as " a moral institution possessing inalienable and imprescriptible rights antecedent and superior to all positive law." In particular the State recognizes that " by her life within the home, woman gives to the State a support without which the common good cannot be achieved." No law shall be enacted providing for the grant of a dissolution of marriage, and no person whose marriage has been dissolved in any other State shall be capable of contracting in Ireland a valid marriage during the lifetime of the other party to the marriage so dissolved. The right to private ownership of external goods by man, " in virtue of his rational being," is acknowledged by Art. 43, and the State guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath and inherit property.

Full religious liberty is guaranteed by Art. 44, in which the State, while recognizing the special position of the Roman Catholic Church, recognizes also the churches of the other religious denominations existing in Ireland.

Amendments of the Constitution must be by a Bill passed by both Houses and submitted by Referendum to the decision of the people, and passed by a majority of the votes cast at such a Referendum ; but amendments may be made by the Oireachtas alone within a period of three years after the date on which the first President shall have entered upon his office, unless the President, after consultation with the Council of State,

signifies that the amendment is of such a character and importance that it ought to be submitted to the people.

Art. 48 repeals the existing Constitution, Art. 20 carries over the existing laws and the final Article (63) provides for the enrolment of a copy of the Constitution, signed by the Taoiseach, the Chief Justice and the Chairman of Dáil Eireann, that such copy shall be conclusive evidence of the provisions of the Constitution and that, in the case of a conflict between the Irish and English texts, the Irish text shall prevail.

The enactment of the new Constitution of necessity brought with it a number of consequential statutes which, in fact, comprised a large part of the legislation for the year. For instance, the Interpretation Act (No. 38) makes the necessary provisions in regard to the form, operation and interpretation of Acts of the Oireachtas and of orders, regulations and other instruments made under those Acts. The date of the passing of an Act is the date on which the Bill is signed by the President (s. 8). The Act, in the main, follows the lines of the former Interpretation Act (No. 46 of 1923), which ceases to apply to Acts passed after the coming into operation of the new Constitution.

The Constitution (Consequential Provisions) Act (No. 39) makes the necessary adaptations of words and phrases such as " Saorstát Eireann," " Irish Free State," " President of the Executive Council," " Central Fund," etc. It also provides for an official seal for the Government, and by s. 13 the Government is given power, except in capital cases, to remit, modify or defer any punishment imposed by the Constitution (Special Powers) Tribunal.

The Plebiscite (Draft Constitution) Act (No. 16) makes provision for the taking of a plebiscite on the draft Constitution. Every person who is entitled to vote at a general election has the right to vote at the plebiscite (s. 4). A Form of Ballot Paper is prescribed on which the voter is asked to answer " Yes " or " No " to the question, " Do you approve of the Draft Constitution which is the subject of this Plebiscite ? " The Electoral (Chairman of Dáil Eireann) Act (No. 25) enables the member of the Dáil who is Chairman immediately before a dissolution to be deemed, without any election, to be elected a member of the Dáil at the ensuing general election, unless he announces before such dissolution that he does not desire to continue to be a member of the Dáil.

The Seanad Electoral (University Members) Act (No. 30) deals with the election of university members to the Seanad under Art. 18 of the new Constitution, which provides that three members of the Seanad shall be elected by the National University of Ireland and three members by the University of Dublin.

The Presidential Elections Act (No. 32) provides for the nomination and election of a President under Art. 12 of the Constitution, under which a candidate must be nominated by not less than twenty members of either the Dáil or Seanad, or by the councils of not less than four administrative counties. The election is on the same basis and the electorate is the same as in a Dáil election. The Presidential Seal Act (No. 37) provides that, as from the coming into operation of the new Constitution, the President shall have a seal, and it also provides for proof of instruments made by the President by production of the *Iris Oifigiúil* (Official Gazette) purporting to contain such instrument or by the production of a copy of such instrument purporting to be printed by the Stationery Office.

The only other constitutional Act of any general importance is the Executive Powers (Consequential Provisions) Act (No. 20), which makes certain amendments in the law rendered necessary by the removal from the Constitution of Saorstát Eireann by Act No. 27 of 1936 of the King and the Representative of the Crown, whose powers, functions and jurisdiction are transferred to the Executive Council (s. 2). The Act also provides for the payment to the last holder of the office of Governor-General of a sum of £2,000 and an annuity of £500 during his life.

Courts of Justice.—The Circuit Court (Registration of Judgments) Act (No. 3) makes provision for the registration of circuit court judgments in the High Court, and every circuit court judgment may be registered as a judgment mortgage against the lands of the defendant.

Finance.—The Finance Act (No. 18) continues income-tax (4*s.* 6*d.* in the £) and surtax as before. S. 2 contains special provisions dealing with income settled on children. Customs duty on tea is reduced from 6*d.* to 2*d.* per pound (s. 10), and numerous additions and alterations are made to existing customs duties.

Fishery Acts.—The Sea Fisheries (Protection of Immature Fish) Act (No. 33) was passed for the purpose of prohibiting the taking of undersized sea-fish, and it provides for the restriction of the size of mesh of nets and the carriage of devices for obstructing the meshes of a net. The Act contains power for the Minister for Agriculture to authorize the taking of immature fish for scientific purposes. The definition of "fish" is extended to include all crustaceans and molluscs found in the sea. The Whale Fisheries Act (No. 4) gives effect to the International Convention for the Regulation of Whaling signed at Geneva on September 24, 1931, and prohibits the catching or treating of whales within the exclusive fishery limits of Saorstát Eireann and outside such limits save under licence.

Galway.—The Local Government (Galway) Act (Private Act No. 3) incorporates the inhabitants of the town of Galway as a municipal corporation, a status which they had previously enjoyed from the fourteenth century up to the passing of the Municipal Corporations (Ireland) Act, 1840.

Post Office.—The Post Office (Evasion of Postage) Act (No. 7) deals with postal packets posted outside Saorstát Eireann by or on behalf of a person residing or carrying on business therein (unless such person carries on business both in and out of Saorstát Eireann and the packet does not purport to come only from an address therein) addressed to the addressee, at an address in Saorstát Eireann. Such packets (if the postage thereon is less than the equivalent postage in Saorstát Eireann) may either be returned, or the sender may be sued for the Saorstát Eireann postage on same.

Spanish War.—Two Acts connected with the war in Spain were passed during the year. The first, the Spanish Civil War (Non-intervention) Act (No. 1), makes it unlawful for citizens of the State to serve in the military forces of a belligerent, or to depart from the State for the purpose of proceeding to Spain without a special passport. The Act contains restrictions on the sale of travel tickets for Spain and power for the Executive Council to prevent the export of war materials to that country. Certified Red Cross Units are exempted from the provisions of the Act. The second Act, the Merchant Shipping (Spanish Civil War) Act (No. 9), which is of temporary duration, empowers the Minister for Industry and

Commerce to regulate the movements of Saorstát Eireann merchant ships in waters adjacent to Spain, to require such ships to display specified flags in certain circumstances, and to confer on officers of ships of war of specified countries powers of stopping and boarding Saorstát merchant ships, examining their papers and interrogating their officers, crew and passengers.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* FREDERICK READ, ESQ., LL.B., *Professor of Law, Manitoba Law School.*]

Acts passed—100: Public—45; Local and Private—9; Divorce—46.

The second session of the Eighteenth Parliament began on January 14, 1937, and closed by prorogation on April 10, 1937.

Air Lines.—C. 43 provides for the incorporation of Trans-Canada Air Lines. The Act gives the corporation power to establish, operate and maintain air lines for the purposes of carrying on the business of transporting mails, passengers and goods by air. The Governor in Council may authorize the Minister of Transport to enter into a contract with the corporation for the organization, operation and maintenance by the corporation of lines of aircraft (to be known as the Trans-Canada Lines), for the speedy and efficient transport across Canada and between and within the several Provinces of passengers and goods; and the Governor in Council may also authorize the Postmaster-General to enter into a contract with the corporation for the transport of mails by means of the Trans-Canada Lines.

Customs.—C. 24 amends the Customs Act by providing that the Governor in Council may order that import, excise and other duties and taxes be disregarded in estimating the value for duty of goods of any kind imported into Canada from any specified country; and amendments are also made in respect to a basis of value for duty, the number of packages to be opened by the collector or appraiser for the purpose of examination and appraisal of duty where an invoice or entry covers a number of packages, drawbacks, penalties for infractions of the Act and the making of regulations respecting the importation or exportation of arms, ammunition, implements or munitions of war, military, naval or air stores. Cc. 25 and 26 amend the Customs Tariff in many respects, too numerous to detail here.

Excise.—Amendments are made to the Excise Act, 1934, by c. 29, in regard to the meaning of the term "officer" when used in the Act, the refund of duties, abatements in respect to certain spirits, penalties, licences for having and using chemical stills, validation fees on removal of spirits for export, and the sale and delivery of specially denatured alcohol. S. 176 of the Excise Act, 1934, which provides that there shall be imposed, etc., on beer or malt liquor in storage on June 30, 1934, the duties of excise set out in the schedule to that Act, is repealed.

Feeding-stuffs.—C. 30 provides for the control and regulation of the sale of feeding-stuffs, the term "feeding-stuff" being declared to mean

any article intended for consumption by livestock and purporting to supply proteins, carbohydrates, fats, minerals, condiments or vitamins, and to include any article prepared for the purpose of preventing or correcting nutritional disorders. The Act is to be administered under the Minister of Agriculture, and a schedule containing descriptions of articles of feeding-stuff and particulars of analysis to be guaranteed and legibly shown on every package containing feeding-stuff is appended to the Act.

Fisheries.—C. 31 repeals the Biological Board Act, R.S.C. 1927, c. 18, and provides for the creation of a Fisheries Research Board, to consist of fifteen members appointed by the Minister of Fisheries, two from the Department of Fisheries, two representing the fishery industry on the Atlantic coast, two representing the fishery industry on the Pacific coast and nine scientists selected from a list including nominations which may be made by any Canadian University whose staff embraces scientists engaged in research work in any way bearing upon fishery problems. The Act came into force on January 1, 1938.

C. 36 confirms and sanctions the Convention made between Canada and the United States of America for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on January 29, 1937. The Act came into force on August 10, 1937, by proclamation of the Governor in Council, and is to continue in force until a day which may be fixed by a similar proclamation following upon the termination of the Convention.

Foreign Enlistment.—By c. 32 it is an indictable offence punishable by fine or imprisonment, or both, for any person, being a Canadian national, within or without Canada, voluntarily to accept or agree to accept any commission or engagement in the armed forces of any foreign state at war with any friendly foreign state, or, whether a Canadian national or not, within Canada, to induce any other person to accept or agree to accept any commission or engagement in any such armed forces.

Gold Clauses.—Under c. 33, in the case of any gold clause obligation payable in money of Canada, tender of currency of Canada, dollar for dollar, of the nominal or face amount of the obligation, shall be a legal tender, and the debtor shall, on making payment in accordance with such a tender, be entitled to a discharge of the obligation. The expression " gold clause obligation " means any obligation incurred before the passing of the Act or thereafter (including any such obligation which had, at the date of the commencement of the Act, matured) which purports to give to the creditor a right to require payment in gold or in gold coin or in an amount of money measured thereby; and it includes any such obligation of the Government of Canada or of any Province. In the case of any gold clause obligation governed by the law of Canada payable in Canada or elsewhere, in money other than money of Canada, tender of the nominal or face amount of the obligation in currency which is legal tender for the payment of debts in the country in the money of which the obligation is payable shall be a legal tender, and the debtor shall, on making payment in accordance with such a tender, be entitled to a discharge of the obligation. Any payment in respect of a gold clause obligation made before the commencement of the Act now under review, which, if made after that Act, would entitle the debtor to a discharge, will be deemed to have discharged the obligation; and the Act declares that every gold clause obligation is contrary to public policy, and that no such provision shall hereafter be contained in or made in respect of, any obligation. The

provisions of the Act are to have full force and effect notwithstanding anything contained in any other statute or law. The Act came into force on April 10, 1937.

Housing.—C. 11, entitled the Home Improvement Loans Guarantee Act, 1937, was passed with a view to increasing employment by encouraging the repair of rural and urban homes, and allows of the Dominion Government making loans for home improvements.

Immigration.—The Immigration Act is amended by c. 34 in respect to the preservation of Canadian domicile during absence from Canada, the inclusion (in non-immigrant classes) of persons passing in transit through Canada under escort or guard from one port or place within Canada to another port or place out of Canada, the exclusion from admission into Canada of persons suffering from trachoma and the duties of police to execute orders of the Minister of Justice and departmental officers respecting the arrest, detention or deportation of any immigrant, alien or other person; also as to the reopening of a Board of Inquiry, the medical treatment of persons seeking to enter Canada, the duty of companies to reconvey rejected immigrants to the country of their birth or citizenship, investigation of complaints concerning undesirable classes, the detention of certain persons pending deportation and the disposition of a deposit given as security for the return of deserters to their ship.

National Parks.—C. 55 enables the Governor in Council by proclamation to set aside such lands in New Brunswick as that Province and Canada agree upon as suitable for a national park.

Railways.—C. 6 authorizes the provision of moneys to meet expenditures incurred by the Canadian National Railways during 1937 in respect to general additions, betterments and new equipment, and the retirement of maturing capital obligations, and the issue and guarantee of securities in respect thereto. C. 22 provides for the cancellation of capital stocks and certain indebtedness of the Canadian National Railway System to His Majesty, and for adjustment of the accounts of the system.

Relief.—For the purpose of alleviating unemployment and agricultural distress c. 44 empowers the Governor in Council to authorize the execution of public works and undertakings, and to co-operate with the Provinces and with certain organizations and individuals in their endeavours to establish and re-establish unemployed persons.

Seed Grain Loans.—C. 39 empowered the Governor in Council to authorize the guarantee of the principal and interest of any loans made by any chartered bank and guaranteed by the Provinces of Alberta, Manitoba and Saskatchewan, respectively, for purchasing seed grain and providing for assistance to farmers in connexion with seeding operations during the spring of 1937. In the case of Alberta the aggregate principal amount of loans so guaranteed was not to exceed $1,600,000; in the case of Manitoba it was not to exceed $750,000; and in respect to Saskatchewan it was not to exceed $6,600,000.

Seed Testing.—Under c. 40, provision is made for the establishment by the Minister of Agriculture of an advisory board for the purpose of regulating the testing, inspection and sale of seeds, of cereals, forage crops, lawn or turf grasses, and other kinds of seed, bulbs or sets of garden vegetables.

Succession to the Throne.—C. 16 declares the assent of the Dominion to the alteration in the law touching the succession to the throne set forth in the Act of the Parliament of the United Kingdom intituled His Majesty's Declaration of Abdication Act, 1936.

Trade Agreements.—The trade agreement entered into between the Government of Canada and the Government of the United Kingdom, on February 23, 1937, is approved by c. 17, which came into force on September 1, 1937. The agreement concluded between the two Governments on August 20, 1932, is repealed. By the terms of the statute now under review, the 1937 trade agreement is to remain in force until August 20, 1940; and unless six months before August 20, 1940, notice of termination shall have been given by either Government to the other, the agreement is to remain in force until the expiry of six months from the date on which a notice of termination is given. The Provisional Trade Agreement between Canada and Germany signed at Ottawa, October 22, 1936, is approved by c. 20, which is to come into force on a day to be fixed by proclamation; and c. 21 similarly approves the trade agreement entered into between the Government of Canada and the Government of Uruguay on August 12, 1936.

2. ALBERTA.

The Social Credit Administration came into power in Alberta on September 3, 1935. The statutes of the early Sessions of this, the Eighth Legislature, were reviewed in our last general Review of Legislation. The Third Session opened on February 25, 1937, and closed on June 17. The three most interesting statutes of the Session, "An Act respecting Taxation of Banks" (c. 1), "An Act to Amend and Consolidate the Credit of Alberta Regulation Act" (c. 8) and "An Act to Ensure the Publication of Accurate News and Information" (c. 9), are covered by the decision of the Judicial Committee in *Attorney-General for Alberta* v. *Attorney-General for Canada* (July 14, November 4, 1938). The Committee noted that owing to the subsequent repeal of the Alberta Social Credit Act (c. 10), the two last-mentioned Acts had become inoperative and that the question of their validity had consequently ceased to be of practical interest. The Taxation of Banks Act, however, was held to be *ultra vires* the Provincial Legislature. In these circumstances it appears unnecessary to review either the provisions of these three statutes or of those of the Social Credit Act (c. 10) repealed on April 8, 1938. As, however, this last Act appears to have had some operation albeit a brief one, a summary mention is perhaps desirable. It replaced the Social Credit Measures Act and the Alberta Credit House Act. Part I constituted a Board of five named persons with various functions and a Provincial Credit Commission, and a fund to be known as the Provincial Credit Account. It provided for the issue of Treasury credit certificates and empowered the Provincial Credit Commission to constitute a Department of Provincial Administration to be known as the Alberta Credit House, and to provide advances of Alberta credit free from interest to persons engaged in agriculture, manufacture or industry in the Province and for the purpose of home building and carrying on business. It was a far-reaching and novel enactment. Another somewhat drastic Act, the Debt Adjustment Act (c. 9), amended and consolidated earlier legislation and authorized the constitution of a Debt Adjustment Board. The Act gives to the Board extensive powers to restrict proceedings for the recovery of debts (other than those for rates and taxes or damages for torts) without a permit and deals very fully with voluntary arrangements between debtors and creditors promoted by the Board. The Postponement of Debts Act

(c. 30) authorized the Lieutenant-Governor to declare a moratorium, but this again has been since repealed and the substituted provisions will be dealt with in our next Review. It is indeed difficult to keep pace with the kaleidoscopic changes in Alberta legislation. The lawyers of the Province need to make use of a highly efficient index system if they are to know from day to day what the current law may chance to be.

Prosperity Certificates.—The Prosperity Certificates Act of 1936, which authorized the issue of credit certificates for four specified types of goods or services, was amended by c. 83, which empowers the Lieutenant-Governor to authorize the redemption of outstanding prosperity certificates upon presentation, and to prescribe as to the stamps to be affixed on certificates at the time of presentation.

Sessional Indemnities Advances.—C. 84 must strike the uninitiated as reflecting a strange practice. It provides for the payment by the Provincial Treasurer of loans made to members of the Legislature of a sum not exceeding $450, at any time between June 17, 1937, and the opening of the next Session of the Legislature, secured by an assignment of the member's sessional indemnity of which notice has been given to the Treasurer.

The amount so paid is deductable from the member's indemnity.

Telephones.—The Rural Mutual Telephone Companies Amendment Act (c. 64) requires that every holder of a share shall become a subscriber for the company's service within six months of becoming the holder ; if he does not, he loses his right to attend and vote at shareholders' meetings until such time as he becomes a subscriber, but remains liable for calls on his shares. The company is empowered to furnish service to non-shareholders.

The remaining Acts of the Third Session do not present many points of interest.

Contract and Tort.—In the realm of Contract and Tort, we may note a Garageman's Lien Act (c. 77), which gives a garageman a lien upon a motor vehicle for the storage, servicing, repair or maintenance of such vehicle or for accessories furnished for the same. The lien is postponed to encumbrances on the vehicle created in good faith and without express notice at any time during which the vehicle is out of the possession of the person entitled to the lien and before the filing of the claim of lien. It ceases on the expiration of ninety days from the filing of the claim unless proceedings to enforce are taken within such period. Such proceedings consist of seizure made by a sheriff, and upon seizure the vehicle is delivered to the garageman, who has the same right of enforcing his lien as if he had a possessory lien under the Possessory Lien Act.

Another Act worth mention is c. 16, which repeals the Hotelkeepers Act, 1922, and re-enacts its provisions with amendments. Every hotel, boarding and lodging house keeper is given the right to detain trunks and personal property of persons indebted for board and lodgings ; and if the debt remains unpaid for over a month the same may be sold on publication of a notice of sale in a local newspaper, the notice to set out the name of the debtor, the amount of the debt, the time and place of sale and the name of the auctioneer. The proceeds of such sale are to be applied first on payment of the indebtedness and costs of advertising and sale, and the surplus is to be paid to the person entitled thereto, upon his applying for the same. Hotelkeepers are relieved from liability for loss of or injury to property brought into an hotel by persons not registered

as occupants of a room, except where the loss or injury is due to the misconduct of the hotelkeeper or his employees, or where the goods have been duly deposited with the hotelkeeper for safe keeping. They are also relieved from liability for loss or injury to the goods of registered guests left in their rooms where the rooms are equipped with locks and keys, unless the rooms are locked whilst unoccupied and the keys left at the hotel office ; and also from liability for loss of jewellery and money from such rooms in case the hotelkeeper provides a suitable deposit box for the safe keeping of such property (s. 6). An hotelkeeper is deprived of the benefit of this Act in case he refuses to receive such of his guests' goods for safe custody, or in case a guest is unable to deposit such goods in safe keeping of the hotelkeeper through the default of the latter. Hotelkeepers are required to keep posted up in the hotel office and in every room ordinarily used as a guest-room a copy of s.6.

The Contributory Negligence Act, c. 18, provides for the apportionment of damages where the damage or loss is caused by two or more persons proportionately to the degree in which each person was at fault. If different degrees of fault cannot be ascertained, the liability is to be apportioned equally. Where damage has been caused by the default of two or more persons, the court is to determine the degree of fault of each ; and where two or more persons are found liable, each is jointly and severally liable to the person suffering the damage, but each is liable to contribute and indemnify the other to the degree in which each is found to be at fault. On the trial of an action by a judge with a jury, no question is to be submitted to the jury as to whether, notwithstanding the fault of one party the other could have avoided the consequences thereof, unless the judge is of the opinion that there is evidence upon which the jury could reasonably find that the act or omission of the latter was clearly subsequent to and severable from the act of the former so as not to be substantially contemporaneous with it ; upon a trial by a judge alone the question aforesaid is not to be considered unless the judge is satisfied by evidence as to the severability of the act upon which the question depends.

Control and Protection of Mentally Infirm Persons.—Further legislation was enacted in connexion with the control and protection of mentally infirm persons. The Sexual Sterilization Act, c. 47, defines "mentally defective person" as any person in whom there is a condition of arrested or incomplete development of mind existing before the age of 18 years, whether arising from inherent causes or induced by disease or injury ; and "psychotic person" as a person who suffers from a psychosis. S. 4 relates to sterilizing operations in the case of psychotic persons, and provides that the operation may be ordered where the Board is of the unanimous opinion that the exercise of the power of procreation would result in the transmission of mental disease or the risk of mental injury. S. 5 relates to similar operations in the case of mentally defective persons and contains similar provisions. S. 6 exempts from liability to civil actions in respect of anything done in good faith in purported pursuance of the Act.

The Mental Diseases Act, c. 45, excludes an addict as defined in the amended Act from the operation of s. 3, which provides for proceedings before a justice of the peace leading to an inquiry as to persons who are mentally diseased and dangerous to be at large.

C. 22 repeals the Estates of the Mentally Incompetent Act (R.S.A. 1922, c. 225) and re-enacts the provisions of that Act with amendments.

Part I deals with the custody of persons of unsound mind and their estates. S. 3 empowers the Supreme Court to make orders for the committal to a committee of the person and estate of persons of unsound mind, and ss. 4, 5 and 6 set out the procedure. Ss. 7, 8, 9 and 10 empower the court to make declarations as to unsoundness of mind and set out the procedure. S. 11 empowers the court to direct the trial of an issue as to the unsoundness of mind of a person previously declared of unsound mind and make new orders.

Part II deals with the custody of persons who are mentally infirm and their estates, and empowers the court to declare a person to be incapable of managing his affairs by reason of disease, old age, the use of drugs or other causes, without making a declaration of unsoundness of mind, and thereupon a committee may be appointed to administer his estate.

Part III deals with estates of mentally incompetent persons, that is persons who are mentally incompetent and are in institutions.

Co-operative Associations.—Co-operative associations have also required new legislation. C. 66 takes the place of the Co-operative Associations Act (1922, c. 160). The Act, which is of some length, contains extensive provisions on the organization, powers and operation of co-operative associations.

The Co-operative Activities Supervision Act Amendment Act (c. 73) empowers the Minister to suspend or cancel the charter of any association incorporated under the Co-operative Associations Act or the Co-operative Marketing Associations Act which the Supervisor reports as mismanaged or conducted on an unsound basis, or otherwise than in accordance with co-operative principles.

The Co-operative Marketing Associations Act Amendment Act (c. 74) prohibits contributions by a co-operative marketing association to any association or body having for its objects the furtherance of any political party.

Trade Unions.—The Freedom of Trade Union Association Act (c. 75) is one which one might suppose was long overdue. It provides that it shall be lawful for employees to form themselves into a trade union ; and that it shall be lawful for employees to bargain collectively with their employers and to bargain through their trade union and its officers. Contracts restricting any employee in the exercise of his rights are void. The Act prohibits employers from intimidating employees or threatening employees with loss of employment or discharging or penalizing employees with the object of preventing them from belonging to a trade union, and declares the same to be an offence punishable on summary conviction. This Act has, however, since been repealed, though many of its provisions were reproduced in the repealing Act (2 Geo. VI, c. 57).

Highways.—A lengthy Vehicles and Highway Traffic Amendment Act (c. 60) makes a variety of provisions of a not unusual character with a view to securing safety on the roads. Thus s. 6 makes compulsory the carrying of lights on cycles between one hour after sunset and one hour before sunrise, and the carrying of a rear lamp or a reflector. S. 7 makes new provision as to the adequacy of brakes for motor vehicles. Policemen are empowered to test brakes at any time and to require the owner of the vehicle to have the same made adequate. S. 8 makes it compulsory for the operator of any motor vehicle involved in any accident causing injury to person or property to report the same to a police officer. Further provisions set out the rights and duties of pedestrians. At intersections

where the traffic is light controlled, pedestrians are to cross in the direction of the moving traffic; and vehicles turning are to yield the right-of-way to pedestrians so crossing. Pedestrians crossing a roadway elsewhere than at a crossing are to yield the right-of-way to vehicles. At intersections controlled by lights or a police officer, vehicles are to yield the right-of-way to pedestrians who have started to cross on a green or "go" signal, and in all other cases pedestrians are to yield the right-of-way to vehicles lawfully proceeding ahead on a green or "go" signal. Pedestrians on the paved or travelled part of a highway are to comply with the rules governing vehicles as to meeting and turning out, except that pedestrians are to keep to the left of the centre line instead of the right, and are to turn to the left instead of the right thereof, so as to permit all vehicles passing them in either direction to pass on their right. Pedestrians are not required to give road signals.

Education.—Education is a favoured subject for legislation in Alberta, and in 1937 elaborate School Amending Acts (cc. 40, 43, 81) made many minor amendments in the law as to school board elections, etc.

Taxation.—A number of Acts made sundry alterations in the law relating to taxation. Among such may be mentioned the Succession Duty Amendment Act (c. 17), which extends the period during which transfers of property may be regarded as gifts made in anticipation of death from three to ten years.

The Industries Assessment Act (c. 54) is a consolidating Act. It authorizes any city, town or village to pass a by-law fixing the assessment of the property of any person carrying on or proposing to carry on an industrial establishment or manufactory; such assessment is not to be for a longer period than twenty years, may not be renewed, and is not to affect any tax on land apart from the value of improvements thereon, special taxes, business tax or any other tax other than a tax on improvements. The fixed assessment may not be less than one-fourth of either the actual value or the cost of the improvements.

A Corporations Taxation Act Amendment Act (c. 57) imposes an additional tax on banks of one-tenth of 1 per cent. on paid-up capital. The tax payable by life insurance companies on premiums on business in the Province is increased from 2 to 3 per cent., that payable by loan companies on income from investments in the Province from 1 to 2 per cent. and that payable by finance companies on the gross income from operations in the Province from 1 to 2 per cent., the minimum tax being fixed at $100 instead of $50.

Various other similar increases and extensions are also provided.

The Grazing Lease Taxation Act (c. 48) does away with the taxation of grazing leases under the Municipal District Act, the Improvement Districts Act, the Educational Tax Act and the Social Services Tax Act, and imposes a provincial tax on grazing leases held under the Crown of an amount equal to the amount of the rent.

The Crown Cultivation Leases Act (c. 49) exempts from taxation under the same Acts the interest of any lessee holding land of the Crown under a cultivation lease in respect of which a crop share is payable as rent.

The Home Improvements Exemption Act (c. 53) permits any municipal district and school district to exempt from assessment repairs, alterations and additions to any rural or urban home carried out in the year 1936 since October 15, 1936, and in the years 1937 and 1938 or

either of them, in respect to which a loan has or might have been made under the Home Improvements Loan Guarantee Act of the Dominion.

3. BRITISH COLUMBIA.

[*Contributed by* J. PITCAIRN HOGG, ESQ., *Legislative Counsel.*]

1936.

Acts passed—135 : Public—127 ; Private—8.

British Columbia Cancer Foundation Note Guarantee.—C. 4, First Session, guarantees a promissory note to be made by the British Columbia Cancer Foundation.

Contributory Negligence.—C. 12, First Session, apportions liability for damages in proportion to the degree of fault and makes provisions governing the awarding of damages ; apportions liability for costs and liability of joint tortfeasors and right of contribution. In every action the amount of damage or loss, the fault (if any) and the degrees of fault shall be questions of fact. This Act repeals the Contributory Negligence Act, c. 8 of the Statutes of 1925.

Fruit, Vegetables and Honey.—Such provisions of the Act of the Dominion Parliament respecting fruit, vegetables and honey as are within the legislative competence of the Province and outside that of the Dominion are by c. 21, First Session, of the Provincial Legislature given the force of law in the Province.

Health Insurance.—C. 23, First Session, provides for the establishment of a provincial system of health insurance.

Marketing of Natural Products.—An amendment, c. 34, First Session, of the Natural Products Marketing (British Columbia) Act sets forth the purpose and intent of this Act as being to provide for the effective regulation and control in any respect, or in all respects, of the marketing of natural products within the Province, including the prohibiting of such marketing in whole or in part.

C. 30, Second Session, amends the Act and sets forth the purpose and intent of Part I as being to provide for the control and regulation in any or all respects of the transportation, packing, storage and marketing of natural products within the Province, including the prohibition of such transportation, packing, storage and marketing in whole or in part.

Naturopathy.—C. 42, First Session, constitutes the Association of Naturopathic Physicians of British Columbia.

Revised Statutes.—C. 52, First Session, provides for the revision and consolidation of the public general statutes of British Columbia. The Revised Statutes of British Columbia, 1936, were brought into force on June 30, 1937, by proclamation of the Lieutenant-Governor.

Court of Appeal.—C. 5, Second Session, provides an amendment that in no case shall an even number of judges sit for the hearing of an appeal.

Factories.—C. 13, Second Session, is an amending Act inserting a Part II providing for " home-work " and regulating the same.

Workmen's Compensation.—C. 61, Second Session, amends the Workmen's Compensation Act, and provides compensation for workmen totally or partially disabled by contracting silicosis in the metalliferous-mining industry.

1937.

Auto-camp and Hotel Guest Registration.—C. 3 requires registration of guests in auto-camps and hotels in unorganized territory.

Beef Grading.—C. 4 provides for the inspection and grading of beef and imposes a penalty on any person who sells beef which has not been inspected and graded.

Closing-out Sales.—C. 7 prohibits sales described as "bankrupt," "insolvent," "wholesalers'," "moving out," "fire," "forced," etc., without a licence.

Coal and Petroleum Products Control Board.—C. 8 provides for the appointment of a commission to control and regulate the coal and petroleum industries.

Commodities Retail Sales.—C. 9 provides that where a producer or wholesaler has set a retail price for a commodity no retailer may sell by retail below the retail set price.

Department of Mines.—C. 47 is a re-enactment with amendments of the Department of Mines Act. The Mineral Survey and Development Act, Department of Mines Act, Mines Development Act, Iron-ore Supply Act, Ore Purchasing and Treatment Act and the Radium Act are repealed.

Department of Trade and Industry.—C. 73 is an Act to create a Department of Trade and Industry and to provide for the investigation of matters of economic importance, the encouragement of industry, the collection and publication of statistics, the development of trade, and the stimulation of tourist traffic.

Food Products Minimum Loss.—C. 51 enacts that no retailer shall sell any food product at a price less than 5 per cent. above the cost of the same to the retailer.

Fruit, Vegetables and Honey Grades.—C. 23 provides for the inspection and grading of fruit, vegetables and honey and makes it an offence to represent any fruit, vegetables or honey as being of a particular grade when it has not been graded according to the regulations, or to misrepresent the variety, class or origin of any fruit, vegetable or honey.

Industrial Conciliation and Arbitration.—C. 31 declares that employers and employees have a right to organize, that employees may bargain collectively with their employers and may conduct such bargaining through representatives. Any employer or employee refusing so to bargain is liable to a fine. To seek to prevent an employee from joining an association is an offence. Organizations of employers and employees are required to register with the Minister of Labour.

In case of an industrial dispute, either party may request the appointment of a conciliation commissioner, whose duty is to seek to bring the parties together and endeavour to effect an amicable settlement. The commissioner must report within fourteen days the result of his efforts to the Minister. If the commissioner has failed to effect a settlement, the Minister refers the dispute to arbitration by three persons, one appointed by employers, one by employees and the third by the two so appointed. After a hearing the arbitrators make an award. The parties may accept or reject the award. The question of acceptance or rejection must be submitted to a vote by secret ballot.

A lock-out or strike is prohibited pending conciliation or arbitration. The award is retroactive to the date of application for appointment of a

commissioner and, in the meantime, no change may be made in wages or hours. An award cannot be enforced by any court.

Mortgagors' and Purchasers' Relief.—C. 52 continues the principal Act of 1934 in force until 30 days from the close of the first session of the Legislative Assembly in the year 1938.

Welfare Institutions Licensing.—C. 78 provides for the licensing of welfare institutions, which includes buildings conducted as a boarding-home, orphanage or other institution for children, wherein care is provided for two or more children under 12 living apart from their parents; maternity homes, shelters, refuges, etc., to serve under privileged persons, where food and lodging are furnished for five or more persons who, on account of age, etc., are unemployable and who are destitute or are in receipt of old age pension, etc. A Board is created to administer and carry out the provisions of the Act.

4. MANITOBA.

[*Contributed by* WILSON E. MCLEAN, ESQ., K.C., *Legislative Counsel.*]

At the 1937 session of the Legislature ninety-six Bills were passed, of which fifty-two were public general statutes, forty-one general or local municipal statutes and three private Bills.

Companies.—By c. 7, Part VI A has been added to the Companies Act, permitting the organization of credit union societies. It is modelled after Quebec and Maritime Provinces' legislation and has the object of promoting thrift among members and creating a source of credit to them.

Gold Clauses.—C. 17 is legislation concurrent with that of the Dominion, Ontario and one of the Maritime Provinces and provides for the discharge of securities, both private and public, in present legal tender.

Milk Control.—C. 29 provides for the transfer of milk regulation from the Municipal and Public Utility Board to a new board with extended authority. This Act authorizes price fixing and a system of licensing for control purposes.

Strikes and Lock-outs Prevention.—C. 40 replaces the Industrial Conditions Act and provides for a board to be set up for each dispute and prohibits strikes and lock-outs during the hearing of a dispute. The underlying principle is conciliation as in the Industrial Disputes Investigation Act (Dominion).

Well Drilling.—The purposes of c. 50 are to provide protection for well owners, to control sub-surface elements and to obtain geological data.

Anatomy.—C. 2 provides for the disposition of unclaimed bodies for dissection purposes.

Education Department.—C. 12 puts back under the control of the Minister most of the administrative functions in connexion with educational matters previously exercised by the Advisory Board.

Municipal and Public Utility Board.—Part II has been recast by c. 30 and deals with the financial affairs of local authorities, providing for debt adjustments of municipalities and administration of their affairs when in default.

Income-tax.—C. 43 embodies ordinary income-tax in Part I and special income-tax in Part II. Part I remains practically the same in principle as the former Act and Part II deals with the wage tax. An arrangement has been made with the Dominion to facilitate collection.

Amusements.—The principal Act is, by c. 1, extended to permit

censoring of films at reduced rates if they are to be used for educational purposes.

County Courts.—By c. 8 the effect of appeal on execution has been brought into conformity with King's Bench practice.

Surrogate Courts.—A provision has been inserted by c. 10 to permit resealing of grants from any British dominion or possession if a reciprocal agreement exists.

Debt Adjustment.—C. 11 clarifies, with respect to tax sale proceedings, the Farmers' Creditors Arrangement Act and the running of limitations.

Highway Traffic.—C. 19 makes numerous small amendments. Matters dealt with are: lights, commercial trucks, parking, records *re* second-hand parts, motor-cycle seating, guards on snow-mobiles, loading of cordwood, livestock transportation, speed limits, pedestrians, short-wave receivers, reporting accidents, endorsing convictions and public service vehicles.

Hospital Aid.—By c. 20 the determination of the residence of indigents to fix municipal responsibility for hospitalization charges has been transferred to the Municipal Commissioner. Canvassing for donations for certain purposes has been prohibited unless by permit.

Hotel-keepers.—The rights of hotel-keepers to a lien on property of guests for non-payment of charges has been extended by c. 22.

Insurance.—Prohibitions in regard to group automobile insurance have been enacted by c. 24.

Law Fees.—C. 25 provides an exemption from fees in cases taken in *forma pauperis*.

Public Schools.—By cc. 32–5 unorganized territory has been defined; time for enrolment is specifically set out; situation where wards have been abolished is clarified; extension of electors' rolls are authorized and arbitration awards validated.

Securities.—By c. 38 provisions dealing with pooling or escrow of vendors' shares have been added. Advertisements are prohibited unless they are approved and the company is registered. Extensive provisions have been inserted for a check on the solvency of brokerage houses.

Trustees.—Provisions have been added by c. 47 for the advance under the authority of the court of capital moneys subject to a trust, notwithstanding its terms.

5. NEW BRUNSWICK.

[It is hoped to publish this Summary in the next *Review*.]

6. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., K.C., *Deputy Attorney-General*.]

Acts passed—122: Public—63; Local—36; Private—23.

Apprenticeship.—C. 4 regulates the contract of apprenticeship in building trades, including bricklayers, masons, carpenters, painters and decorators, plasterers, plumbers and electricians.

For the purposes of the Act "apprentice" means a male person of not less than sixteen years of age who enters into a contract of service in accordance with the Act, whereby he is to receive from or through his employer in whole or in part training and instruction in any of the designated trades. A form of contract of apprenticeship is set forth in Schedule B to the Act. The contract of apprenticeship must be

signed by the apprentice, by his father if the apprentice is a minor, or if the father is dead by the mother, or if the mother is dead by the guardian, and must be signed also by the employer. The contract is not in force until it has been recommended by the Provincial Apprenticeship Committee appointed under the Act to the Director of Apprenticeship, and by him registered. The Deputy Minister of Labour is *ex officio* the Director of Apprenticeship. Every person who enters into a contract of apprenticeship in respect of a designated trade not in accordance with the Act, or employs a minor in a designated trade, or contravenes any of the provisions of the Act or any regulations made thereunder, is guilty of an offence and liable on summary conviction to a penalty of not more than $100, and every day during which any default continues constitutes a separate offence. This Act was proclaimed to be in force on, from and after September 1, 1937.

Trade Unions.—C. 6 defines " trade union " as any lawful association, union or organization of employees, whether employed by one employer or by more than one employer, which is formed for the purpose of advancing in a lawful manner the interests of such employees in respect of their employment.

The Act declares that it shall be lawful for employees to form themselves into a trade union, and to join the same when formed, and to bargain collectively with their employer or employers, and for members of a trade union to conduct such bargaining through the trade union and through the duly chosen officers of the trade union. Every employer is compelled to recognize and bargain collectively with the members of a trade union representing the majority choice of the employees eligible for membership in the trade union when requested so to bargain by the duly chosen officers of the trade union, and any employer refusing so to bargain is liable to a penalty not exceeding $100 for each such offence, and in default of payment to imprisonment. Employers are forbidden to contract themselves out of the Act. It is an offence for an employer by intimidation, threat of loss of position or employment, or by actual loss of position or employment, or by threatening or imposing any pecuniary penalty, to prevent or attempt to prevent an employee from joining or belonging to a trade union. Every trade union is required to file with the Provincial Secretary of the Province a certified copy of its constitution, rules and by-laws, and each year to transmit to the Provincial Secretary a statement of the receipts and expenditures for the preceding calendar year, verified by affidavit. The check-off, so called, for periodical payments of dues to a trade union is compulsory in any industry in which by Statute or by arrangement between employer and employees deductions are made by employers from the wages of employees for benefit societies, hospital charges, or the like, provided that there has been a vote of the employees in favour of such check-off, or if any individual employee makes to the employer a written request that such deductions be made from the wages due him, and indicates the name of the person to whom the deductions shall be paid.

Transient Photographers.—The object of c. 9 is to regulate the carrying on of the business of a photographer, and the canvassing or taking orders or soliciting orders for photographs or enlargements or reproductions by those who are not residents of the Province of Nova Scotia, and who have not resided therein for a period of at least three months immediately prior to the date of the application for a licence under the Act.

Motor Carriers.—Important amendments of the Motor Carrier Act were made by c. 29 amending c. 78 of the Revised Statutes of Nova Scotia, 1923. The amendment provides for the regulation of motor carriers. " Motor carrier " is defined as any person operating, whether by himself or another, any motor vehicle with or without trailer attached as a public vehicle, and " public vehicle " is defined as a motor vehicle operated by or on behalf of any person carrying on upon any highway the business of a public carrier of passengers, or passengers and freight, for gain. Provision is made for the administration of the Act by the Board of Commissioners of Public Utilities, which is given power *inter alia* to specify the route or routes over which a public vehicle may operate, and to specify the highway or highways within an area or zone on which a public vehicle may operate, and to fix the rates, fares or charges which a motor carrier is authorized to charge, and the schedules and service which a motor carrier must observe. Every motor carrier is required to hold a certificate of public convenience and necessity issued by the Board of Commissioners of Public Utilities.

Solemnization of Marriage.—Prior to the enactment of c. 38 amending c. 134 of the Revised Statutes, 1923, a marriage might be legally solemnized under licence or after publication of banns by a minister or clergyman of a church or religious denomination being a man and resident in Canada, recognized as duly ordained according to the rites and ceremonies of the church or denomination to which he belongs, or by certain officers of the Salvation Army. The amendment provides that every such minister or clergyman and officer must be registered by the Registrar-General, who may register him on being satisfied that he is such minister, clergyman or officer.

Gasoline Licensing.—The most important amendment in c. 56, amending the Gasoline Licensing Act, 1934, is that which authorizes the Board of Commissioners of Public Utilities from time to time to fix the price or prices at which any licensee or licensees under the Act shall sell gasoline in any part of Nova Scotia for use in Nova Scotia.

7. ONTARIO.

[*Contributed by* K. G. MORDEN, ESQ.]

Acts passed—106: Public—82; Private—24.

Consolidation of Statutes.—C. 6 appoints the Legislative Counsel a commissioner to consolidate and revise the public statutes of Ontario, which consolidation is to be referred to as the Revised Statutes of Ontario, 1937. The last revision of the statutes was in 1927.

Municipal Taxation.—An amendment to the Assessment Act (c. 9) repeals the amendment to the Act passed in 1936 (c. 4) dealing with taxation for separate school purposes. For the effect of this repeal on assessments made in 1937 for 1938, see *Re Union Stock Yards of Toronto Ltd.*, [1938] O.W.N. 124, [1938] 2 D.L.R. 361.

Jurisdiction of Inferior Courts.—By an amendment to the County Courts Act (c. 14) the jurisdiction of these courts in actions arising out of contracts is increased from $800 to $1,000 and in actions for tort from $500 to $1,000. The jurisdiction of the division courts in personal actions is increased from $120 to $200 by an amendment to the Division Courts Act (c. 20).

Labour.—The Department of Labour Act is amended (c. 17) by providing for a new administrative board of five members to be named "The Industry and Labour Board." The new Board is to administer any Act in which it is designated for that purpose or which may be assigned to it by the Lieutenant-Governor in Council. It is also given the power to hold public inquiries for the purpose of obtaining information to assist the Department of Labour in carrying out the provisions of s. 5 of the Department of Labour Act, R.S.O. 1927, c. 62. By the Minimum Wage Act (c. 43) the Industry and Labour Board is given power to fix minimum wages and maximum hours of work for employees except domestic servants and farm labourers. Before 1937 minimum wage legislation extended to only female employees.

Dionne Quintuplets.—An amendment (c. 19) to the Dionne Quintuplet Guardianship Act, 1935, c. 19, transfers certain powers conferred by that Act on the Minister of Public Welfare, such as the supervision of the guardians of the persons and estates of the Quintuplets, to the Official Guardian of Ontario.

Agriculture.—The Farm Products Control Act (c. 23) provides for the establishment of a board, to be known as "The Farm Products Control Board," with powers to make regulations controlling the marketing of farm products and the licensing of persons engaged in the marketing and processing of any farm products. Plans for the marketing of farm products after approval by the Board may on the recommendation of the Minister of Agriculture be declared by proclamation to be in force in Ontario. The Farm Products Grades and Sales Act (c. 24) empowers the Minister of Agriculture to make regulations for establishing grades for farm products and makes it an offence to violate any such regulation or to misrepresent the grade, variety or origin of any farm product.

Gold Clauses Act.—C. 29 provides that obligations which give the obligee the right to require payment in gold or an amount of money measured in gold shall be discharged by payment, dollar for dollar, in coin or currency which at the time and place of payment is legal tender. This follows and is complementary to the Dominion Gold Clauses Act, 1937, c. 33.

Lunacy.—By amendments to the Interpretation Act (c. 33), the Lunacy Act (c. 39) and the Statute Law Amendment Act (c. 72), the words "insane person" and "lunatic" are deleted wherever they appear in any Act, and the words "mentally ill person" and "mental incompetent" substituted respectively. "Mental defective" is substituted for "idiot" or "imbecile."

Married Women's Property Act.—By an amendment to this Act (c. 40), it is provided that a husband is not liable for debts incurred or contracts entered into by his wife before marriage. In 1931 (c. 33) a husband was freed of liability for his wife's torts committed either before or after marriage.

Securities Act.—An amendment to this Act (c. 69) confers very wide powers upon the Securities Commission or its representatives to investigate or inquire into the affairs of any person or company in order to ascertain whether any criminal or improper act, or any act unfair to or discriminatory against any holder or prospective purchaser of shares or any act whereby any unfair advantage may be secured by any person or any company over any other person or company, has been or is likely to be committed. The Commission or its representative is given power to

summon witnesses and to compel them to give evidence on oath; and no action for libel or slander or otherwise shall lie against the Commission or its representative in respect of any act or omission in connexion with any such investigation.

8. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Acts passed—48: Public—37; Private—11.

Agricultural Encouragement.—By c. 2 encouragement and financial aid are given to agriculture and the dissemination of agricultural information by the formation of Societies or Farmers' Institutes in such districts as may be defined by the Lieutenant-Governor in Council, and by taking measures to obtain from other countries animals of new and improved breeds, new varieties of grains, seeds, vegetables and other agricultural products for distribution and by promoting improvement in stock raising, dairying, horticulture and other branches of agriculture. The Act provides for the organization and incorporation of societies or institutes to be formed to promote agricultural education, to disseminate information regarding improved methods of soil cultivation, orchard management, construction of farm buildings; to provide for the introduction of improved breeding stock, the co-operative purchase of supplies required by the members and to conduct the sale of agricultural products. Annual grants may be made by the Department of Agriculture to institutes which are registered with the Department and comply with its regulations.

Bills of Sale.—C. 3 is a consolidation and revision of previous Acts respecting bills of sale, chattel mortgages, declarations of trust and assignments and assurances of personal chattels. Such documents may be registered. Registration shall be ineffective beyond a period of ten years unless before that time expires an affidavit is filed by the grantee stating the amount owing upon the security or that the consideration for which the original bill of sale was given still really and truly exists.

Dairy Industry.—C. 7 supplements federal legislation by declaring that upon proclamation of the Lieutenant-Governor in Council the provisions of the Federal Dairy Industry Act and regulations made thereunder, so far as the same may be without the legislative competence of Canada and within that of the Province, shall have the force of law in the Province as if enacted by the provincial legislature, until repealed or revoked.

Junk Dealers.—By c. 8, dealers in second-hand articles, excepting vehicles, machinery and furniture, must be licensed by the Provincial Treasurer before doing business. Records of their dealings are to be kept which are to be open to inspection by the Royal Canadian Mounted Police or any other policeman or constable having authority where the business is carried on.

Miscellaneous.—Acts revising and re-enacting former statutes were passed dealing with constables and fence viewers (c. 5), county courts (c. 6), division fences (c. 9), dogs (c. 10), domestic animals (c. 11), game (c. 13), garnishee proceedings (examination of judgment debtors and attachment of debts) (c. 14), gasoline taxes (c. 14), prohibition of sale of intoxicating liquors (c. 27), public services (c. 28), registration of deeds (c. 30).

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Acts passed—155 : Public—101 ; Private—54.

Payments in Gold.—By c. 10, every obligation heretofore or hereafter incurred, and whether such obligation is due, accruing due or past due, which gives or purports to give to the obligee a right to require payment in gold or in a particular kind or standard of coin or currency or in an amount of money of the Dominion of Canada or elsewhere measured in gold or in a particular kind of standard of coin or currency, shall be discharged upon payment, dollar for dollar, of the nominal or face amount of the obligation in any coin or currency which at the time of payment is legal tender at the place of payment named in such obligation for public and private debts. No action may be brought, nor any proceedings taken, on account of the exercise of this right.

Communistic Propaganda.—C. 11 renders it illegal for any person who possesses or occupies a house within the Province to use it or allow any person to make use of it to propagate communism or bolshevism by any means whatsoever. Upon satisfactory proof that any house has been so used, the Attorney-General may order the closing of the house against its use for any purpose whatsoever for a period of not more than one year by any peace officer with the necessary assistance. The owner of the house may petition, for revision of the order, a judge of the Superior Court upon proving (*a*) that he was in good faith and that he was in ignorance of the house being used in contravention of this Act, or (*b*) that such house has not been so used during the twelve months preceding the issuing of the order. In the case of (*a*) the judge may suspend the order if the owner furnish in favour of the Crown security fixed by the judge guaranteeing that such house will not be again used for such purposes. The Attorney-General may, upon application to a judge of the Superior Court sitting in the same district and upon proving that use is being made of the house in contravention of this Act, obtain a new decree re-establishing in force the closing order, with security exigible immediately. In the case of (*b*) the judge may cancel the order. Any judgment rendered in virtue of the suspension, re-establishing in force and the cancellation of the closing order shall be final and without appeal. The Attorney-General may permit the occupation at any time after the issuing of the closing order of the house for the protection of the property and the effects contained therein. He may at any time revoke a closing order. In addition, the Act renders it unlawful to print, to publish in any manner whatsoever or to distribute in the Province any newspaper, periodical, pamphlet, circular, document or writing whatsoever propagating or tending to propagate communism or bolshevism, and the Attorney-General, his substitute or a person specially authorized by him for the purpose may order the seizure and confiscation of any such writing whatsoever. The destruction thereof may be ordered by the Attorney-General.

Consolidation of Provincial Laws.—C. 12 enacts that the Cabinet shall choose three persons of this Province to revise and consolidate the laws of a permanent and general nature. They shall be charged with the consolidation, correction of drafting, etc., of the laws, and the Attorney-General may participate in their deliberations.

Interpretation Act.—By c. 13, whenever there is a difference between the French text and the English text of a statute or of the Revised Statutes, the French text shall prevail. Likewise, in any difference between the French text and the English text of the Civil Code, the Code of Civil Procedure, the Municipal Code, a proclamation or an order in council, the French text shall prevail. (N.B.—This law, assented to April 14, 1937, was repealed April 8, 1938).

Elections.—C. 18 permits Crown prosecutors to be electors and forbids the vote of interdicted persons and the insane hospitalized in an asylum or in a nursing home. The lists and all writings in connexion with them for Quebec shall be public. No person who has committed or participated in the committing of any fraudulent act since the day when a date was fixed for an election may vote thereat.

Quebec Public Service Commission.—C. 19 enacts that the Public Service Commission Act and the amendments thereto shall be deemed to have been repealed as from April 15, 1937. Nevertheless, the Cabinet may authorize the payment to the then President of the Quebec Public Service Commission of an annual pension out of the consolidated revenue fund.

Quebec Liquor Commission.—By c. 22, the Quebec Liquor Commission Act is amended and the Commission is declared to be and to have always been a corporation vested with all the rights and powers belonging to corporations generally. The Cabinet may appoint an assistant-manager who shall have all the functions and duties attributed to him by the manager, and the latter shall appoint the officers, inspectors, clerks and other employees.

Alcoholic Liquor Act.—C. 23 authorizes the Cabinet to increase the duties for each class of permit. Suits may be taken and complaints signed by any person authorized generally by the Attorney-General, while the complaint deposited shall make proof of signature.

Hydro-Electric Resources.—C. 24 repeals the Act respecting the exploitation of falls and rapids on watercourses in the public domain and their concession in future, and creates a corporation under the name of the National Electricity Syndicate, composed of three administrators, which is constituted the mandatory of the Province and possesses, in addition to the rights and powers conferred upon it by the Act, all those which may be exercised by corporations in general. The Syndicate is authorized to establish and operate in certain electoral districts electricity generating plants and electricity transmission and distributing systems. The Cabinet may have sums up to the amount of $10,000,000 paid to the Syndicate for this purpose. The Syndicate may be authorized by the Cabinet, in addition, to establish other electricity plants and systems for the use of the public, but in this case it shall exercise its rights and powers under the supervision of the Cabinet, which may allow it to issue shares constituting its capital stock.

Provincial Electricity Board.—By c. 25, the Provincial Electricity Board, composed of five controllers, is created as a supervisory and arbitration committee respecting the production, sale and distribution of electricity. The Cabinet may authorize the Provincial Treasurer to advance to the Board, as a loan out of the consolidated revenue fund, the sums required by it for the carrying out of this Act. However, the Cabinet may order the payment of such advance by means of loans for not more than thirty years, bearing interest at rates not exceeding

4 per cent. per annum. The Quebec Electricity Commission Act (1935, c. 24) is repealed.

Electricity Municipalization.—C. 26 allows any municipal corporation to establish and maintain for its use and that of the consumers in the municipality an electricity service, if a by-law to that effect is approved by the affirmative vote of a majority in number and value of the elector-proprietors. If the cost of the undertaking has to be defrayed by means of a loan, the by-law must specify the form and amount of the loan. The provisions of this Act apply also to any municipal county corporation, and in this case the by-law must provide for a sufficient loan to defray the cost. The interest and amortization of the loan is recovered from the local corporations for which the service is established. The Electricity Municipalization Act (1935, c. 49) is repealed as well as the provisions of any other general law relating to the establishment of electricity systems by a municipal corporation.

Natural Resources.—C. 28 restricts the acquiring of rights in connexion with public domain to corporations solely constituted under a law of the Province.

Forests.—C. 29 regulates the shipping to places outside the Province of wood coming from local forests. A shipping permit which remains in force for one year is obligatory. Sworn information and reports as required must be transmitted to the Minister of Lands and Forests. The Act authorizes the Cabinet to make certain regulations.

Farm Credit.—C. 32 amends the Quebec Farm Credit Act (1936, Second Session, c. 3) and increases the borrowing power of the Farm Credit Bureau, by issue of bonds or otherwise, from $10,000,000 to $15,000,000.

Education.—By c. 34, the Council of Education is authorized to form and maintain under its control one or two committees, composed of persons competent in pedagogy and in agricultural science, and entrusted with the preparing of a programme of agricultural teaching. The sums required shall be paid out of the consolidated revenue fund by the Cabinet.

Colonization.—C. 37 enacts that the Government may expend $8,200,000 for the establishment of settlers, the construction of roads, etc. The expenses shall be paid out of the consolidated revenue fund, but the Cabinet may authorize the Provincial Treasurer to borrow, for a period not exceeding thirty years, the sums required.

Mining.—C. 41 amends the Quebec Mining Act and amendments in various ways: new regulations as to due date of duties, surveyors' certificates, staking out of claims, operators' plans and registers, restrictions on Crown lands, etc. The holder of a miner's certificate who is a minor shall, for any matter connected with this Act, have the same rights and be subject to the same obligations as if of the age of majority.

Titanic Iron Ore Premium.—By c. 43 the Cabinet is authorized to pay annually, out of the consolidated revenue fund, during a period of five years, to every owner of a deposit of titanic iron ore being worked in the Province of Quebec, a premium of 1 cent per unit of metallic iron contained in each ton of iron ore extracted and shipped from his deposit on certain conditions. The Minister of Mines and Fisheries is charged with the carrying out of this Act by any means he may deem expedient.

Game Laws.—C. 45 divides the Province for hunting purposes into four sections, changes the prohibitions as to hunting, killing, taking or

selling moose, deer or certain game birds, and forbids at all times the possession of a gun or other hunting gear or the keeping of a dog or dogs on any Crown land erected as a sanctuary, game reserve or park without a special permit from the Minister in charge.

Fisheries.—C. 46 authorizes the Minister of Mines and Fisheries to establish and equip cold storage warehouses to preserve fish and bait therein and to acquire existing cold storage warehouses for the same purposes. The Minister may acquire any immovable necessary by agreement or expropriation. The expenditure under this Act shall not exceed $100,000.

Tourist Traffic.—C. 48, in order to assure a better administration of the matters relating to tourist traffic, establishes the Tourist Traffic Bureau, charged in general with the organization thereof ; all initiatory syndicates are formed into one federation known as the Federation of Initiatory Syndicates ; and the Minister of municipal affairs and the Tourist Traffic Bureau may recognize as a tourist traffic school any touristic course for the training of tourist guides.

Workmen's Wages.—By c. 49 the Cabinet may order that a collective labour agreement respecting any trade, industry, commerce or occupation shall also bind all the employees and employers in a stated region of the Province, and any party to an agreement may apply to the Cabinet for this decree, which renders obligatory provisions respecting wages, hours of labour, apprenticeship and the proportion between the number of skilled workmen and that of apprentices in a given undertaking. The provisions of the decree entail a matter of public order and shall govern any hire of work of the same nature in the region determined, forbidding any stipulation of remuneration below that fixed ; but the clauses of an individual hire of work contract to the advantage of the employee shall be effective. A joint committee to supervise the carrying out of the decree must be formed, and it shall constitute a corporation having all the powers and rights of a civil corporation. The committee may decide by by-law that a certificate of competency to be issued by the Board of Examiners shall be obligatory for the employees. Any decree in so far as it is to the advantage of the employee shall have precedence over any order rendered according to the provisions of the Women's Minimum Wage Act and its amendments. The Collective Labour Agreements Extension Act (1934-5-6) is repealed.

Fair Wage Act.—C. 50 creates an arbitration tribunal in matters of fair wages and working conditions called the Fair Wage Board, composed of not more than five members appointed by the Cabinet. The Board may, with the approval of the Cabinet, organize conciliation committees, and it may, in addition, by ordinance, determine fair wages, established on a basis of remuneration by the hour, day, week, month, year, job or piece and working hours and make all investigations respecting the work of minors under eighteen years of age authorized by the Cabinet. When an ordinance has been rendered, its provisions constitute a matter of public order : it becomes unlawful to stipulate in any labour agreement a lower wage than that fixed by the ordinance. The claims of several employees against the same employer may be cumulated in a single claim, and the defendant cannot set up against the action any grounds by way of cross demand. The action is deemed summary matter, prosecuted as such and prescribed by six months. This Act does not affect the collective labour agreements in force at its coming into force or thereafter. The

Women's Minimum Wage Act (R.S., c. 100) is repealed, but the decrees and proceedings adopted under the Act are effective.

Power of the Cabinet.—By c. 51, the powers granted to the Cabinet prior to August 25, 1936, are reduced. Loan by-laws under the Cities and Towns Act must now have the approval of the Minister of Municipal Affairs, Trade and Commerce, instead of, as formerly, the Cabinet's approval and, likewise, whenever, in virtue of a special Act governing a municipal corporation, it is enacted that a loan by-law must be approved by the Cabinet. Every bond issued by a municipality bearing a certificate that the by-law authorizing its issue was approved by the Cabinet is equally valid if it has the approval of the Minister of Municipal Affairs, Trade and Commerce, as the case may be. The Minister now authorizes the change from standard time to daylight saving time and the revocation of daylight saving time; and no school property is to be hypothecated, sold or otherwise alienated without the approval of the Minister of Municipal Affairs upon the recommendation of the superintendent. The charter of a company incorporated by letters patent may be surrendered now on proof satisfactory to the Attorney-General and the Minister of Municipal Affairs, Trade and Commerce, and they may accept its surrender and direct its cancellation; and in other matters designated by the Act the approval of the Cabinet is no longer necessary.

Courts of Justice.—C. 75 authorizes the Cabinet to establish by proclamation courts of record designated under the name of Social Welfare Courts, but only for cities or towns with a population of over 25,000 souls, the presiding judges to be appointed by the Cabinet. Every Social Welfare Court and every judge presiding over same shall have, respectively, the powers conferred upon them by competent authority and, without restricting the generality of the terms of the above, they shall exercise jurisdiction relating to juvenile delinquents, the admission of children to industrial schools, the hospitalization of indigents, certain investigations under the Quebec Old Age Pensions Act, the admission of the insane, and all other matters for which jurisdiction shall be attributed. In addition, the judge shall promote the protection of childhood, acting as an adviser, and good relations between consorts, as a conciliator. When a Social Welfare Court shall be established for the city of Montreal, the Juvenile Delinquents' Court shall cease to exist and it shall be replaced by the Social Welfare Court.

Needy Mothers.—C. 81 permits the Cabinet to make regulations and to entrust an organization with the carrying out of the Needy Mothers' Assistance Act, whereby the benefit of a monthly allowance may be accorded to any mother under certain designated conditions.

Welfare of Youth.—C. 84 empowers the Cabinet, notwithstanding any provision to the contrary in any general law or special Act, to prohibit work by boys and girls under sixteen years of age in industrial or commercial establishments and to prohibit the employment of boys and girls of less than eighteen years of age in dangerous work.

Bar.—C. 88 extends the powers of the section councils of the Bar to hold inquiries on any matter relating to the professional conduct of the members of the Bar, but the evidence of a member cannot be used in any subsequent complaint against him. Wrongful representation as an advocate now includes persons seeking from the victim of any offence or quasi-offence to recover or settle, soliciting or applying for or drawing up the petition for letters patent on behalf of another, executing proceedings

for the registration required by law of persons or of partnerships carrying on a business or exercising an industry on behalf of another. Practising notaries, notwithstanding, may perform the last two acts enumerated above.

Expropriation.—C. 93 provides that this Act shall apply in all cases of expropriation authorized by laws of the Legislature now in force with the exception of the case provided for in the Act to promote the development of the Gaspesian area, in all cases of expropriation authorized by laws adopted in future and in all other cases of expropriation lawfully authorized. It shall also apply to expropriations made by the Crown in the rights of the Province.

Successions.—C. 96 relieves the Crown of the obligation of making a statement of the property by means of an inventory or other equivalent instrument before it can claim to be authorized to take possession, when the deceased leaves no consort capable of inheriting nor relations within the heritable degree and his succession falls to the Crown.

C. 98 declares that the Government of the Province may join in the same petition several applications for putting in possession of the property of absentees, which, whenever it may be demanded, must be applied for by petition to the judge in the district in which the absentee or deceased person had his last domicile, or if he had no domicile in the Province in the district in which the property is situate.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

Acts passed: Public—98; Private—2.

Education Tax.—Act No. 9 introduces a tax popularly known as the 2 per cent. sales tax. This new tax was recommended by a Commission which recently inquired into and reported to the Government of Saskatchewan upon provincial and municipal taxation. The tax is payable by every person who purchases tangible personal property at a retail sale within the Province for his own consumption or use or for the consumption or use of other persons at his expense. The following classes of tangible personal property are tax exempt, namely: bread, flour, milk (including butter milk), cream, butter, eggs, sugar, fresh meat, fresh poultry, fresh fish, water, coal, wood, newspapers, gasoline taxable under the Gasoline Act, farm implements and parts, farm machinery and parts, grain and mill feeds, binder twine, fishing nets, agricultural products (including livestock) produced within the Province when sold by the producer thereof, and railway rolling-stock, ties and steel rails.

No tax is payable unless the purchase price exceeds 14 cents, and there is a minimum tax of 1 cent on purchases exceeding 14 cents but not exceeding 64 cents. The tax must be computed to the nearest cent, ½ cent being considered 1 cent.

Attachment of Debts.—Heretofore in Saskatchewan it has been possible to issue a writ and attach any debt forthwith by the issue of a garnishee summons. Under an amendment (No. 16) to this Act proceedings to attach wages or salary can only be taken after judgment.

Companies Inspection and Licensing.—Act No. 23 amends an Act passed at the 1936 session of the Legislature with the object of stricter

supervision of trust companies, loan companies and investment companies. The amendment brings finance corporations within the scope of the Act.

Credit Unions.—No. 25 is a new Act following along the lines of similar legislation in Quebec, Nova Scotia, New Brunswick and Prince Edward Island. The Act provides for the incorporation and registration of savings and credit unions and declares the objects of a credit union to be the promotion of thrift among its members and the creation of a source of credit for its members, at legitimate rates of interest, exclusively for provident and productive purposes. The principal powers of a credit union are to receive the savings of its members either as payment on shares or as deposits and to make loans to its members for provident or productive purposes. The general management of the affairs of a credit union lies with the board of directors. The credit committee has general supervision of all loans to members, and the supervisory committee makes a periodical examination of the affairs of the credit union, audits its books and submits a report to the annual meeting.

Tax Enforcement.—Act No. 35 institutes a new procedure for enforcement of payment of municipal taxes, replacing the Arrears of Taxes Act which has been on the statute-book since 1915. Under the old Act, if taxes on land remained unpaid at the end of the calendar year in which they were imposed, the land was sold at auction in the following year by the municipality, and the purchaser might, subject to certain conditions, obtain title to the land within one year after the expiry of two years from the date of sale unless the land had been redeemed in the meantime by the former owner. Under the new Act, instead of selling the land the municipality files a tax lien in the proper land titles office and the lien is registered against the land. Then, within one year after the expiry of two years from the date of filing the tax lien, the municipality may apply for title to the land and obtain title unless before issue thereof the land is redeemed by the owner.

Marriage.—An amendment No. 70 to the Marriage Act authorizes the Court of King's Bench to make a declaration of nullity of marriage where a form of marriage is gone through between persons either of whom is under the age of twenty-one years, without the consent required by the Act, and where the marriage has not been consummated and such persons have not after the ceremony cohabited and lived together as man and wife.

Motor Vehicles.—The Vehicles Act was amended by No. 79 by the insertion of some new provisions, the most important of which are as follows :

Upon receipt of a written report that a motor vehicle is unfit or unsafe for transportation, or is not equipped in accordance with the Act, the Minister of Highways and Transportation may, after investigation, prohibit the operation of the vehicle on the public highway until he is satisfied that the vehicle may be operated without being a source of danger to passengers or the public.

Every police officer or police constable and every inspector or traffic officer appointed for the purpose of enforcing the provisions of the Act may require a driver of a motor vehicle to submit the motor vehicle, together with its equipment and the trailer, if any, attached thereto, to such examination and tests as the police officer, police constable, inspector or traffic officer may deem expedient ; and where any such vehicle, equipment or trailer is found to be unfit or unsafe for transportation or

dangerous to passengers or the public, the police officer, police constable, inspector or traffic officer making the examination or tests may require the driver of the vehicle to have the vehicle, equipment or trailer placed in a safe condition and may order that the vehicle or trailer be removed from the public highway and may prohibit the operation of the same on the public highway until the vehicle, equipment or trailer has been rendered fit and safe for transportation.

Upon receipt of a written report that the holder of an operator's or chauffeur's licence is afflicted with or suffering from such physical or mental disability or disease as might prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon a public highway, the Minister may, after investigation, suspend or revoke the licence until he is satisfied that the person is not suffering from any disability or disease which might cause the driving by him of a motor vehicle to be a source of danger to passengers or the public.

Industrial Standards.—No. 90 is a new Act, modelled on the Ontario and Alberta Acts of 1935, the objective being fair wages and hours of labour for employees.

The Minister of Municipal Affairs is empowered, upon the petition of representatives of employers or employees in any industry, to authorize an industrial standards officer appointed under the Act to convene a conference of the employers and employees in the industry for the purpose of considering the conditions of labour and the practices in the industry and negotiating with regard to wages, hours and days of labour.

The conference may submit to the Minister a schedule of wages and hours and days of labour for the industry affected, and if in the opinion of the Minister the schedule has been agreed to by a sufficient representation of employers and employees, he may approve the schedule and the Lieutenant-Governor in Council may declare the schedule to be in force during pleasure, or for a specified period not exceeding twelve months, within a designated zone. The schedule becomes effective on the expiry of ten days from the date of publication of the Order in Council in the *Saskatchewan Gazette*.

11. NEWFOUNDLAND.

[*Contributed by* BRIAN DUNFIELD, ESQ., *Secretary for Justice.*]

Only twenty Acts were passed during 1937. Two of these were the ordinary supply or financial Acts, and nearly all the rest were minor administrative amendments of purely local interest. For the purposes of an annual review only two or three warrant special mention.

Local Government.—There are no local municipal boards in Newfoundland with the exception of the St. John's Municipal Council in the capital. Act No. 6 renders it possible for the Governor in Commission to declare any area to be a local government area. A Local Council of not less than three nor more than five residents may be appointed by the Governor in Commission and becomes a corporation. It holds office for two years. The Act gives the Local Council a selection of elementary powers necessary for the management of a village or small town. A real property tax based on capital value may be fixed by the Council with the approval of the Governor in Commission. The property of the Government and church, educational and charitable properties are to be exempt from taxation.

St. John's Municipal Council.—The only feature of Act No. 12 of general interest is that the St. John's Municipal Council having fallen into arrears in the collection of taxes, a Municipal Arrears Commission of three persons is to be appointed by the Governor in Commission which is to clear up the situation in relation to arrears of taxes and assessments. The Commission may sue and execute in its own name, may write off bad debts and may compromise. It has the power to take evidence on oath and must report to the Government.

Reindeer in Labrador.—Act No. 13 has been passed to facilitate a promoter who offers to establish European reindeer in some of the unoccupied areas of Labrador. He is to have the right of free importation of reindeer and certain materials, including the effects of persons of Lapp race to be brought to Labrador to act as herders or keepers of the reindeer. He is to pay a small tax on reindeer or reindeer products exported and is to have at least 15,000 reindeer on the lands granted within fifteen years from January 1, 1938. He may progressively reserve grazing rights over a total of three million acres of unoccupied Crown lands. No reindeer have as yet been brought in under this Agreement.

Codfish Trade Insurance.—Owing to the existing situation great trials have been experienced by codfish exporters in getting their payments for codfish out of Italy through official clearing channels. Act No. 19 authorizes the Government, in consideration of a premium of not less than 2 per cent., to insure shipments of salt codfish to Italy against risks of an abnormal or exceptional nature, insurance against which cannot in the opinion of the Government be otherwise effected on reasonable terms or at all. In practice the risks insured against are those of abnormal delay in payment brought about by exchange difficulties or war conditions.

12. BERMUDA.

Acts passed—53.

Poor Relief.—Act No. 4 amends the Act of 1930 in order to increase the powers of justices of the peace in respect of affiliation orders.

Supreme Court.—No. 7 extends the powers of the Supreme Court by adding as Part V of the Act of 1905 provisions respecting money paid into court and not claimed. Such money, if not paid out nor any effective claim made thereto within five years of the payment into court, will, after due notice by the Registrar, be paid into the Public Treasury. The money may be invested as the Governor in Council shall authorize and the interest thereon paid into the Public Treasury. After a lapse of twenty years, and if no claim valid in law has been made, the money will be forfeit to the Crown and appropriated to general revenue.

Firearms.—Among the amendments to the Act of 1930 made by No. 10 there may be noted that the duration of licences is now for one year instead of for three years, and the age below which possession, use, etc., of firearms is prohibited is raised from 14 to 18.

Historical Monuments.—No. 21 creates a trust for the preservation and restoration of places of historical interest or beauty, and objects of the arts and handicrafts of the early inhabitants.

Immigration.—No. 25 repeals the former immigration laws and enacts new provisions. Persons and their dependants exempted from the operation of the Act are domiciled persons, Colonial civil servants, persons employed by H.M. Government of the United Kingdom, accredited

representatives of the Dominions or foreign governments, certain nurses, teachers and ministers of religion, cable and wireless telegraphy companies' employees. A domiciled person is a British subject who (*a*) was born in the Islands or of parents ordinarily resident there at the time of his birth, (*b*) has resided for a period of seven years or more, (*c*) is a holder of a certificate of naturalization granted by the Governor, (*d*) is the wife of any of the foregoing who is not living apart under a court decree or deed of separation, (*e*) is the child, stepchild or adopted child, having been adopted in a manner recognized by law in the United Kingdom or in Bermuda, under the age of 16 years. All persons not exempted from the provisions of the Act must have the permission of the Immigration Board before residing or taking up employment in the Islands; such permission may be withheld by the Board without assigning any reason. There are special provisions relating to hotel employees. Power is taken for the Board, with the approval of the Governor in Council, to prohibit, by notice in the *Gazette*, the landing of persons of any particular nationality, race or class, or from any particular place.

Deportation.—In view of the great and increasing density of the population of the Islands, No. 28 facilitates, when it is deemed advisable, the deportation of British subjects not domiciled in the Islands.

Non-domiciled Persons.—No. 29 provides for the registration of non-domiciled persons. The Act does not apply to (i) persons domiciled in the Islands as defined by s. 3 of the Immigration Act, 1937, and their dependants, (ii) freeholders in the Islands and their dependants, (iii) visitors in possession of a return ticket to some place outside, (iv) persons exempted from the provisions of the Immigration Act and their dependants, (v) hotel employees admitted under the provisions of the Immigration Act.

Civil Service.—No. 33 consolidates and amends the laws relating to the salaries, etc., of the civil servants and other persons employed in the service of the Islands.

Apprenticeship.—The system of apprenticing persons having of late fallen into disuse, and in an endeavour to revive it, Act No. 39 provides financial aid to the masters of such apprentices. The financial aid and other matters affecting apprenticeship are to be under the direction and control of the Board of Education.

Importation of Textiles.—No. 43 amends the Act of 1934 that any textile goods of a class for which a quota has been fixed shall be deemed to be manufactured in a foreign country unless accompanied by the prescribed certificate of British origin.

Reserve Fund.—No. 47 creates a reserve fund to be used towards the government of the Islands only in the case of a falling off of the general revenue through extraordinary causes.

Royal Naval Air Service.—No. 51 authorizes the Governor in Council to make regulations with regard to the movements of island craft within the area of the Dockyard Port used by aircraft belonging to H.M. Forces.

Public Health.—No. 52 consolidates and amends the Public Health Acts. It prescribes the powers and duties of the various administrative authorities and deals with sanitation, water, nuisances, infectious diseases, vaccination, quarantine and the registration of midwives.

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir George S. Knowles, C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*)

Acts passed—47.

The legislative output of the Commonwealth Parliament for the year 1937 was not particularly heavy. Apart from the usual financial measures, a large number of the Acts passed amended existing legislation. There are, however, several notable exceptions, such as the Medical Research Endowment Act (No. 5) and the Therapeutic Substances Act (No. 22) which mark the extension of Commonwealth activities in health matters, and the National Oil Proprietary Limited Agreement Act (No. 23) which is designed to develop Australia's shale oil resources at Newnes.

Assistance to States.—By the States' Grants Act (No. 13), £2,350,000 is appropriated for the purposes of financial assistance to the States of South Australia, Western Australia and Tasmania during the financial year 1937–8. Of this amount, £1,200,000 is allocated to South Australia, and £575,000 each to Western Australia and Tasmania.[1]

Bounties.—Assistance to the apple and pear industry and the citrus industry is continued by the Apple and Pear Bounty Act (No. 36) and by the Citrus Fruits Exports Bounty Act (No. 38), respectively. The rate of bounty on apples and pears exported during 1937 has been reduced from 4½*d.* to 2½*d.* per bushel case. The bounty on citrus fruits has been extended to mandarins, lemons and grape-fruit—the rate of bounty being 2*s.* per orange case of oranges or grape-fruit, 2*s.* per lemon case of lemons, 1*s.* 4*d.* per Australian or standard bushel case of oranges, lemons, grape-fruit or mandarins and 1*s.* per half lemon case of lemons or mandarins. Bounties on certain goods the produce or manufacture of Papua and New Guinea are provided for in the Papua and New Guinea Bounties Act (No. 35). The goods and the rates of the bounty are set out in the schedule to the Act. These goods include cocoa beans and shells, fibres, sago, vanilla beans, bamboos and rattans, unground spices, kapok. The bounties are payable on the importation of the goods into the Commonwealth for home consumption therein, provided they are imported either within the period of ten years from January 1, 1938, or within the period prescribed in the schedule to the Papua and New Guinea Bounties Act, 1926–36. The goods must have been imported direct from the Territory in which they were produced or manufactured.

Customs and Excise.—In view of the general elections in October 1937, it became necessary to validate several tariff schedules which had not been dealt with before the dissolution of the House of Representatives. The validating Acts are as follows: Customs Tariff Validation Act (No. 31), Customs Tariff (Canadian Preference) Validation Act (No. 33), Customs Tariff (Exchange Adjustment) Validation Act (No. 32) and Excise Tariff Validation Act (No. 34). The schedules are validated until February 28, 1938.

[1] See also under Primary Producers' Assistance, Unemployment Relief and Roads and Works.

Health.—A Medical Research Endowment Fund is established by the Medical Research Endowment Act (No. 6). This fund, which is to consist of amounts appropriated by Parliament and of gifts and bequests, will be applied to provide assistance to Commonwealth and State departments and to persons and institutions engaged in medical research, to universities for the purposes of medical research and in the training of persons in such research. The Therapeutic Substances Act (No. 22) is designed to regulate the importation and exportation of therapeutic substances. Such substances are those substances used in the prevention or treatment of disease in man or animals which are wholly or in part derived from microscopic organisms or from living cellular tissue which the Minister declares by notice in the *Gazette* to be therapeutic substances for the purposes of the Act. The Act does not, however, apply to vaccines prepared from microscopic organisms from the body of any person or animal for use in the treatment of that person or animal. The Minister is empowered to declare any institution or manufacturer of therapeutic substances in any place beyond Australia to be an approved overseas manufacturer of therapeutic substances. Persons (other than licensed scientific research workers) are prohibited from importing a therapeutic substance unless licensed as prescribed to import such substance and unless the substance has been manufactured by an approved overseas manufacturer, bears a label on which are set forth the name and address of that manufacturer and such other particulars as are prescribed and conforms to the prescribed standard for that substance. Therapeutic substances may not be exported except under certain conditions. Laboratories may be appointed by the Minister to which therapeutic substances are to be delivered for examination and analysis. Provision is also made in the Act for special precautions (including the destruction of therapeutic substances) where quarantine measures are necessary by reason of the use of therapeutic substances. Regulations may be made for regulating the licensing of importers and manufacturers of therapeutic substances and providing, *inter alia*, for the composition, strength, quality and purity and prescribing other standards of those substances.

Judiciary.—The Judiciary Act (No. 5) relates to Rules of the High Court. Rules of court relating to the whole of the jurisdiction of the High Court may now be made under the Judiciary Act instead of under that Act or the several Acts conferring jurisdiction on the High Court, *e.g.* the various Taxing Acts. Provision is also made with respect to the tabling of rules. These provisions are similar to those regarding the tabling of statutory rules before the amendments made by the Acts Interpretation Act, 1937.

Maternity Allowances.—The Maternity Allowance Act (No. 44) increases the amount of the maternity allowance to £7 10s. where there are three or more previous surviving children and provides for an all-round increase of £26 per annum in the amount of allowable income. Another amendment enables step-children to be taken into account in determining the allowable income and the amount of the allowance.

Pensions.—The Invalid and Old-age Pensions Act (No. 11) increases the maximum rate of invalid and old-age pensions to £1 per week. The existing provisions regarding the adjustment of pensions with the rise and fall of the price-index numbers are repealed. Provision is made for an increase in the limit of income plus pension to £84 10s. per annum

and for an increase of 6*d.* per week in the amount of pension payable to pensioner inmates of institutions.

Primary Producers' Assistance.—(i) *Export Control and Organization.*—Certain amendments rendered necessary by the alteration of the name of the Dairy Produce Control Board to Australian Dairy Produce Board and the name of the Wine Overseas Marketing Board to Australian Wine Board are effected by the Dairy Produce Export Charges Act (No. 40) and the Wine Grapes Charges Act (No. 39), respectively. The classes of persons entitled to vote for the election of representatives on the Australian Dairy Produce Board and growers'representatives on the Dried Fruits Control Board are limited by the Dairy Produce Export Control Act (No. 20) and the Dried Fruits Export Control Act (No. 21). In either case, no person will be entitled to vote unless enrolled as an elector in pursuance of Part VII of the Commonwealth Electoral Act, 1918–34. The Primary Produce Export Charges Act (No. 9) amends the principal Act by repealing the provision which limited the charges on the export of fresh apples and pears to apples and pears exported to the United Kingdom or to the continent of Europe. The Act also authorizes any kind of primary produce to which the principal Act applies to be exempted from the charges imposed by or under that Act.

(ii) *Fertilizer Subsidies.*—The subsidy on artificial manure which has been granted for several years has been continued for another year by the States Grants (Fertilizer) Act (No. 29). The subsidy is payable in respect of artificial manure used during the year ending June 30, 1938, by primary producers in a State or Territory situated within the Commonwealth in the production of primary produce (other than wheat). The amount of the subsidy has, however, been reduced from 15*s.* to 10*s.* per ton and will not be payable on quantities used in excess of 20 tons by an individual primary producer. Another new provision extends the subsidy to artificial manure used by a State or supplied by a State or an organization approved by the Minister otherwise than by sale. The Primary Producers Relief Act (No. 4) simply extends the closing date for the receipt of applications for the subsidy on artificial manure used during the year ended June 30, 1936.

Public Service.—Several measures were enacted in relation to the Commonwealth Public Service. The Commonwealth Public Service Act (No. 41) preserves the rights of several officers who were formerly employed by the Development and Migration Commission but who are now officers of the Public Service. The Government decided to grant superannuation and furlough rights to the officers of certain Commonwealth statutory authorities such as the War Service Homes Commission, the Repatriation Commission, the Council for Scientific and Industrial Research and the High Commissioner for Australia in London. To give effect to this decision, the Superannuation Act (No. 28) was passed and the several Acts constituting the various authorities were amended by the following Acts : Australian Soldiers' Repatriation Act (No. 24), High Commissioner Act (No. 26), Science and Industry Research Act (No. 27) and the War Service Homes Act (No. 25). The Superannuation Act also introduces a new scheme—the Provident Account—which will be availed of by persons who are not permitted under existing law to contribute to the Superannuation Fund or who, owing to age, find contributions to the fund onerous. The provisions relating to the new account, including the

contributions and benefits, are set out in new Part IVA of the Act. Another matter dealt with in the amending Act is the contributions and pensions of officers who are paid in sterling. In future, the contributions and pensions of such officers are to be paid in sterling.

Repatriation.—Three Acts were passed amending the Australian Soldiers' Repatriation Act, 1920–36. By Act No. 12, service pensions are increased by 2*s.* per fortnight and an amendment made in relation to the service pension of a widow and her children in the event of her remarriage, and by Act No. 42 a wife married or a child born to an incapacitated soldier since October 1, 1931, and on or before June 30, 1938, will be eligible for consideration for a grant of war pension. The other Act (No. 24) deals with staff matters only and brings employees of the Repatriation Commission within the purview of the Superannuation Act, 1922. The Repatriation Fund (Baillieu Gift) Act (No. 19) is designed to put on a permanent basis the administration of a gift of £25,000 or thereabouts made by Messrs. Baillieu to the Australian Soldiers' Repatriation Fund in 1916.

Roads and Works.—The Federal Aid Roads and Works Act (No. 3) authorizes the execution by the Commonwealth of an agreement between the Commonwealth and each of the States in relation to the construction, reconstruction, maintenance and repair of roads and other works connected with transport and to make provision for the carrying out of each such agreement. A draft of the proposed agreement, which is in substitution for agreements made in 1926, 1931 and 1936, is contained in the Schedule to the Act. The proposed agreement is to cover a period of ten years from July 1, 1937. During this period the Commonwealth proposes to distribute among the States certain amounts derived from customs and excise duty on petroleum and shale products on the following basis, namely, 5 per cent. of such amounts to Tasmania and 95 per cent. between the several States (excluding Tasmania). Three-fifths of such 95 per cent. will be distributed according to the respective populations of the States as at June 30, 1936, and the remaining two-fifths according to their respective areas. Grants to the States are to be expended on the construction, reconstruction, maintenance or repair of roads, but a proportion not exceeding ½*d.* per gallon may be expended on other works connected with transport. Whenever so required by the Minister, a State is to maintain and repair roads adjoining Commonwealth properties in the State in question. No contribution is required from the States to supplement amounts provided by the Commonwealth. The amounts payable to the States will be made up by the allotment of 3*d.* per gallon of the customs duty and 2*d.* per gallon of the excise duty on petroleum and shale products in lieu of 2½*d.* and 1½*d.*, respectively, under the 1931 agreement.

Shale Oil Industry.—The National Oil Proprietary Limited Agreement Act (No. 23) approves an agreement (a copy of which is set out in the schedule to the Act) made between the Commonwealth, the State of New South Wales and the National Oil Proprietary Limited on July 23, 1937. The agreement relates to the development of the shale oil industry in the Newnes district of New South Wales by the company mentioned.

Statutes.—Several amendments are made in the law relating to the interpretation of Commonwealth statutes by the Acts Interpretation Act (No. 10). In particular, it repeals the Acts Interpretation Act, 1904 (as amended), and incorporates its provisions with the original Act of 1901.

Another amendment provides that, unless the contrary intention appears in a particular Act, the commencing date of Acts passed after January 1, 1938 (except Acts to alter the Constitution), is to be the twenty-eighth day after the date of the Royal Assent instead of the date of such Assent. In the case of *Jolley* v. *Mainka* (49 C.L.R. 242), it was suggested that amending Acts Interpretation Acts would apply only to Acts passed after the date of the respective amending Acts. It is now expressly provided that unless the contrary intention appears, the Acts Interpretation Act, 1901, as amended from time to time, shall apply, and be deemed to have applied, to all Acts of Parliament. Another amendment arises out of the decision of the High Court in the *Broadcasting Company's case* (52 C.L.R. 52). This relates to the retrospective operation of regulations. The amending Act confers on the Governor-General a limited power to make retrospective regulations in cases where pre-existing rights of persons (other than the Commonwealth) are not prejudicially affected or liabilities would not be imposed in respect of past acts or omissions.

Taxation.—The rates of income-tax for the financial year 1937–8 are prescribed by the Income-tax Act (No. 18). These rates are the same as for the financial year 1936–7.

Unemployment Relief.—The States Grants (Youth Employment) Act (No. 37) appropriates £200,000 for the purpose of financial assistance to the States as follows: New South Wales £79,000, Victoria £55,000, Queensland £25,000, South Australia £19,000, Western Australia £14,000 and Tasmania £8,000. Any amount granted to a State is to be granted upon the condition that it is used by the State, in the manner and subject to the conditions approved by the Minister, in providing facilities for the training for, and the placing in, employment of persons between the ages of 18 years and 25 years.

2. NEW SOUTH WALES.

Closer Settlement.—No. 21 reserves to the Crown the enhancement in the value of lands (in the event of their later acquisition for closer settlement) due to the actual or proposed construction or utilization of public works. The Governor may, within twelve months after the commencement of an Act authorizing a public work, proclaim the areas to which it is considered added value will accrue. In the case of a railway line, the proclamation may apply to a list of estates wholly or partly within fifteen miles of the line. In connexion with other public works, the boundaries of the lands proclaimed are to be defined. During the currency of any such proclamation, which shall remain in force for twelve months, the Governor may proclaim his intention to consider the advisability of acquiring the land. In the event of purchase by the Governor the price shall not exceed that recommended by the Advisory Board; and in the case of resumption, unless an agreement is arrived at, the compensation shall be the value assessed by the Advisory Board or determined by the Land and Valuation Court on appeal. In the assessment in either case, the added value due to the public work is to be excluded.

The Act also alters the provisions in other Acts relating to payments in respect of settlement purchases. Provision is made for the payment of interest only for the first five years of a settlement purchase, ranging from 1 per cent. in the first year to 3½ per cent. in the fifth year. This is designed to assist the settler in the early period of occupation and especi-

ally to meet the need of share farmers, sons of farmers and others with experience but limited cash resources.

Companies (Liquidation).—The principal Act (of 1935) was passed to protect orders lawfully made by the Supreme Court in connexion with the winding-up in New South Wales of certain foreign companies (notwithstanding that such companies might be dissolved in the country of incorporation) and to validate the acts of the liquidator of such companies. Difficulties arose in connexion with the liquidation, and the Act No. 34 was passed to facilitate the administration. It also provides for each company concerned bearing its own administrative expenses, and affords a measure of justice to certain creditors of an absconding bankrupt.

Constitution (Legislative Council Elections).—No. 17 provides that in the event of the death of a substitute returning officer, in connexion with elections to the Legislative Council, or in case of sickness or other cause disabling such officer from acting at any election, the Returning Officer may appoint some fit person in his stead. The Act also removes the limitation in the principal Act on the exercise by a substitute returning officer of certain functions to the period between the receipt of the writ and noon on the date of nomination.

Farmers' Relief.—No. 26 provides for extension of the period for receipt of applications for stay orders from farmers desirous of availing themselves of the debts adjustment provisions of the principal Act to June 30, 1938. Provision is also made for a simplified method to be followed by farmers desirous of withdrawing disclaimers of the benefits of the Act. Creditors who may object to withdrawal or disclaimers are restricted to those who have granted credit or financial accommodation since the date on which the disclaimer was executed. The provision necessitating that the farmer should approach his creditors for consent is excluded, and the onus is placed upon the creditors so entitled to notify the Board of their objection to withdrawal. The period for which protection might be afforded those farmers who were granted stay orders is extended to three years from the commencement of the Act of April 18, 1935, or three years from the date of the granting of the stay order, whichever is the later.

Housing.—With the view to facilitating the work of building societies, the Co-operation Act and Government Guarantees Act are amended (No. 27) by extending the powers of guarantee on the part of the Government to financial institutions other than banks, such as friendly societies and insurance companies. The amount of an advance which may be made to a member of a building society under the indemnity given to the society by the Government is increased from £750 to £900. The Act also provides that an indemnity given to a society in respect of advances made beyond 80 per cent. and up to 90 per cent. of the value of a security shall operate and have effect until the amount a member owes, reduced by the value of his shares in the society, does not exceed 66⅔ per cent. of the value of the security. Previously, the indemnity ceased at 80 per cent. The Governor may appoint an additional director of a society in respect of which the Colonial Treasurer has given a guarantee, and in cases where it is deemed necessary, a director or secretary of a society may be removed.

Industrial Arbitration.—No. 9 amends the principal Act with the object of bringing about uniformity between Federal and State awards by providing a common basis upon which the wage rates of the whole of the skilled, semi-skilled, and unskilled workers, whose conditions of

employment are regulated by awards and industrial agreements, shall be assessed. The Act virtually directs the industrial tribunals, when making State awards for industries in which Federal awards operate, to adopt the Commonwealth Court's basis for the assessment of wage rates. It is provided that the State Industrial Commission shall no longer determine the standard of living and declare the living wage. The basis for the assessment of wage rates in awards and industrial agreements (with certain exceptions) made under the Industrial Arbitration Acts must, as far as practicable, be uniform with the basis adopted by the Commonwealth Court of Conciliation and Arbitration. The wage rates in awards and industrial agreements in operation at the commencement of the Act are automatically varied as from the commencement of the first pay period in October 1937, to accord with the Commonwealth Court's basis of assessment of wage rates. State awards in future are to be adjusted quarterly to accord with the fluctuations in the price index numbers published by the Commonwealth Court. The basis for the assessment of wage rates of adult females is to be an amount equivalent to 54 per cent. (calculated to the nearest sixpence) of the male wage rate.

Industrial Arbitration (Eight Hours).—No. 11 makes provision for the carrying on of rationed work for the relief of unemployment, consequent upon the expiry of the Prevention and Relief of Unemployment Act, 1930–1936,[1] which established a Council to deal with the problem of unemployment. The new measure provides that the Governor may from time to time declare any work to be a work for the unemployed. The wages for such work are to be fixed by the Minister. The Act is to remain in force for twelve months, but its operation may be extended by proclamation in the *Gazette*.

Local Government.—No. 10 amends the principal Act so as to ensure that an alderman or councillor will not be liable to disqualification for civic office merely by reason of having an interest in an agreement with the council in common with other members of an association of at least twenty members which is not conducted for private gain and has for its object the advancement of its members in educational, scientific, social, religious, literary, musical, agricultural, horticultural and other like matters.

Noxious Plants.—No. 38 is designed to secure co-ordination by placing the power of declaring plants to be noxious plants entirely in the hands of the Governor. Previously this power was in the hands of individual councils in regard to the areas controlled by them. The Act seeks to bring about control of noxious plants rather than straight-out destruction as was previously the law, as complete destruction is sometimes impracticable or economically impossible. Better provision is made for the eradication of noxious plants from land under the control of councils and pastures protection boards. The councils and boards are placed on an even footing of responsibility in their respective areas. They are required, on notice being served on them by the Minister, to eradicate noxious weeds within the boundaries under their control. Councils are given more effective power to control noxious plants on private land ; and the Western Lands Commissioner is given the powers of a council in this connexion in respect of private land in the Western Division. The Minister for Agriculture is empowered to secure the enforcement of the

[1] The principal Act was allowed to expire consequent on the improvement in conditions of employment.

law against private landholders, councils and pastures protection boards. There is provision for the making of grants and advances to assist in the carrying out of the law, and ordinances may be made prescribing the means of control of noxious plants, etc.

Motor Traffic.—No. 29 provides for a speed limit of 30 miles per hour in built-up areas, that is, areas in which there is street lighting, but the Minister may exclude any particular street from the application of this provision. There is a limitation of speed to 50 m.p.h. outside built-up areas, and a driver exceeding that speed is guilty of an offence unless he can prove that the speed at which he was driving was not dangerous to the public. Speed contests or record-breaking attempts on a road, without the approval of the police, are prohibited. The maximum penalty for drunken drivers is increased to £100 or twelve months' imprisonment, or both; and attempting to drive whilst under the influence of liquor is made an offence. A similar provision relates to persons driving or attempting to drive whilst under the influence of a drug. An owner is obliged to give information to the police with respect to the driver of his vehicle at the time an offence is alleged to have taken place. The maximum penalty for "hit-run" drivers is increased to £100 or twelve months' imprisonment, or both. All accidents involving injury or property damage to the extent of £5 or more are to be reported at the nearest police station. The licence of a person convicted for driving furiously, negligently, or at a speed in a manner dangerous to the public, or driving under the influence of liquor or a drug, or failure to stop after an accident, will be automatically suspended for twelve months on a first offence, and three years on any subsequent conviction within five years. Power is given for regulations providing for the insertion in the licence of any person who has been convicted for a speed offence, of a condition requiring the fitting of a speed governor.

Public Health.—No. 1, which shall be read and construed subject to the Commonwealth of Australia Constitution Act, gives the Governor power, in connexion with the outbreak of an infectious disease, to proclaim any area beyond or in New South Wales to be infected. Persons generally, or of specified ages, may be prohibited from moving by air, land or sea from an infected area into any other area in New South Wales. The prohibition may extend to any sea-going vessel which comes from or has called at any other State or country within which an infected area is situated, but ports may be specified to which entry may be made.

Racing.—In Acts Nos. 31 and 39 there is provision for the repeal of the Racecourses Tax Act and the substitution of tax under the Entertainments Tax Act. The result is a substantial reduction in the amount of Government tax on the charges for admission to racecourses. The percentage of deductions from totalizator investments is reduced from 12½ per cent. to 10 per cent. Fractions of dividends and also unclaimed dividends which previously were retained by the clubs are to be paid to consolidated revenue. There is provision for a more liberal distribution of dividends by permitting fractions of a shilling as low as 3*d*. to be paid, whereas previously the lowest fraction of a shilling which could be paid was 6*d*. There is provision for the appointment of a bookmakers' revision committee, whose function it will be to review all applications by bookmakers for the issue by the Treasury of a bookmakers' tax receipt, and the constitution of a committee to report as to the termination of licences of proprietary racing clubs. Metropolitan greyhound clubs are

to pay 15 per cent. on gross income to consolidated revenue. Licences for greyhound racing are to be issued only to non-proprietary clubs after October 1, 1938. The bookmakers' turnover tax is reduced from 1 per cent. to one-quarter of 1 per cent. Other amendments are that bookmakers' returns need not be witnessed by a J.P. ; that racing clubs may be informed regarding convictions against bookmakers ; and that a permit may be issued for a person to act for a bookmaker in the event of the bookmaker's illness.

Sale of Goods.—No. 23 declares to be void and of no effect any term, express or implied, in any contract of sale of wool after the commencement of the Act, providing for what is known as the draft allowance from the weight of the wool. The Act is to commence on a day to be fixed by the Governor.

Special Income and Wages Tax.—Acts Nos. 12 and 13 provide for reductions in the rates and amount of special income tax and wages tax payable. As from December 1, 1937, wages tax is entirely removed from weekly earnings between £2 and £3 per week. In addition, reductions of wages tax are made amounting to 33⅓ per cent. on incomes between £3 and £4 per week, 25 per cent. on incomes between £4 and £5 per week, 20 per cent. on incomes between £5 and £6 per week, and 10 per cent. on incomes between £6 and £20 per week. The rates of special income tax payable on relative incomes are correspondingly reduced, with application to the assessments issuing in the present financial year. In addition, provision is made for a rebate of wages tax to be allowed to every taxpayer, irrespective of the level of his income, amounting to 6*d*. per week for each dependant of a wage-earner, and also for a rebate of 15*s*. from his assessment to be allowed for each dependant of a person paying special income tax. This is equal to 6*d*. per week for seven months from December 1, 1937, but in the next assessment a full year's rebate of 26*s*. will be allowed for each dependant. The dependants in respect of whom rebates are allowed are the spouse of the tax-payer or a child under the age of 16 years. A further concession is made to pensioners who have been exempted from special income-tax and wages tax on pensions where the total income of the pensioner from all sources does not exceed £200 p.a.

Statute Law Revision.—No. 35 is designed to repeal obsolete statutes, and statutes the operation of which is exhausted ; to make certain corrections in particular statutes which are rendered necessary by the enactment of subsequent legislation ; to correct literal errors ; and to provide for uniformity in the provisions of Acts relating to the making of regulations and by-laws. The savings clauses contained in the previous Statute Laws Revision Acts of 1898 and 1924 are repeated with certain extensions. The Act does not alter the existing law.

Theatres, Public Halls and Cinematograph Films.—No. 44 amends the Theatres and Public Halls Act, 1908, by making it an offence for any person to exhibit cinematograph films in any licensed theatre or public hall unless the prescribed endorsement is made on the licence authorizing the exhibition of cinematograph films in such building. The endorsement shall not be refused in respect of premises used for the screening of cinematograph pictures prior to the commencement of the Act, or in respect of premises for which plans and specifications have been approved and which indicate that the proposed building is intended for picture purposes. An application for the endorsement in respect of any new proposals after the commencement of the Act and before January 1,

1939, shall not be granted without the approval of the Governor. A committee, to be styled " The Theatres and Public Halls Investigation Committee," is to be established, consisting of three members, one of whom shall be the Under-Secretary, Chief Secretary's Department, who shall be chairman. The other two members shall be appointed by the Governor and shall not have any pecuniary interest in the film trade or business. This committee will be required to conduct investigations in relation to the provisions of the Act respecting the licensing, control and regulation of theatres and public halls used for picture purposes. It will specially investigate such matters as standards of accommodation, fees for licences, quota of films exhibited, charges of admission to picture theatres and the methods to be adopted in providing adequately for safeguarding the health and securing the comfort and convenience of the public. The committee shall also investigate any matter referred to it by the Minister. The committee shall report to the Minister the result of its investigations not later than June 30, 1938, and such report shall be accompanied by a draft Bill for the legislation necessary to give effect to its report and recommendations.

The Act also amends the Cinematograph Films (Australian Quota) Act, 1935, by providing that, in the years 1938 and 1939, the distributor's quota in respect of Australian films shall be 3 per cent. In subsequent years his quota shall be as fixed by the Governor on the recommendation of the Films Advisory Committee. If a distributor acquires an Australian quota film in any year, and the contract under which such film is acquired provides for payment to the producer in respect of its exhibition outside Australia and New Zealand of a sum not less than £10,000 (£5,000 of which shall be paid to the producer within six months), the film so acquired may, in respect of its exhibition outside Australia and New Zealand, be counted as one Australian quota film for purposes of the distributor's quota. The meaning of the word " acquire," so far as it relates to the distributor's responsibility under the Act, is more clearly defined by providing that if a distributor is unable otherwise to secure his quota it shall be his duty to produce, or cause to be produced, a sufficient number of Australian quota films to enable him to comply. If a distributor satisfies the Films Advisory Committee before March 31, 1938, that he has made arrangements to comply with the quota requirements for 1938, or that he has made any arrangement which will materially assist the production industry in New South Wales, the Minister may, on the recommendation of the Films Advisory Committee, exempt him from the quota requirements for the year 1937. The exhibitor's quota for the years commencing July 1, 1938, and July 1, 1939, is fixed at 2½ per cent. per annum. In subsequent years his quota will be as fixed by the Governor on the recommendation of the Films Advisory Committee. Provision is made to allow any exhibitor to reject 12½ per cent. of foreign films contracted for by him either before or after the commencement of the Act. This rejection right is in addition to the rejecting right already possessed by him in respect of quota films.

3. QUEENSLAND.

[*Contributed by* J. E. Broadbent, Esq., C.M.G., B.A., I.S.O.]

Public Service Superannuation.—Act No. 14 authorizes the giving to the Superannuation Fund of another ten years' interest at the rate of 5 per cent. from July 1, 1937, in accordance with the monthly balance.

Acts Shortening.—Act No. 11 is a formal amendment whereby "penalty" provisions in an Act may be shortened to bring the Queensland law into line with the Commonwealth provisions (*e.g.* in the Income-tax Assessment Act).

Diseases in Plants.—Act No. 16 is a machinery measure having reference particularly to facilitation of administration in regard to diseased plantations and bunchy top on banana plantations. Proof in evidence on prosecutions is simplified. It is a measure in the interests of the man on the land.

Diseases in Poultry.—Act No. 21 aims at better protection in the poultry industry. Persons who engage in the practice of determining the sex of day-old chickens must be licensed. It is an offence to sell diseased poultry or the carcasses of poultry which had died otherwise than by slaughter. Powers are given to an inspector to destroy poultry forwarded for sale which in his opinion are diseased or unfit for human consumption. Voluntary registration of hatcheries is provided. Agents must not charge fees in excess of those prescribed. Increased regulation-making power is provided as to disinfection of crates, registration of hatcheries and generally.

Brands.—Act No. 17 makes various amendments which administration has shown necessary. Earmarks on swine are omitted from the Act, as the Pig Industry Act now covers this. There is a tightening up of provisions regarding stock on which the brand is altered, blotched or rendered illegible, and also as to earmarks. Branding irons are to be not less than $1\frac{1}{4}$ inches or more than $2\frac{1}{2}$ inches in length. Regulations may be made as to grading of hides. The provisions are aimed at prevention of mutilation of hides.

Air Navigation.—Act No. 8 is to come into force on a proclaimed date. The measure is the outcome of a Premiers' Conference following on the adverse decision of the High Court as to the constitutionality of the Commonwealth Air Regulations. The Act applies the Air Navigation Regulations made under the Commonwealth law to Queensland in all cases where they do not so apply at present. The various powers and functions are vested in the Commonwealth authorities, including issue of certificates and licences, and the cancellation or suspension thereof. Fees payable go to the Commonwealth.

Police.—Act No. 12 is mainly a consolidation of the existing laws dealing with the police force. In regard to the appointment of special constables the Governor in Council may appoint same in addition to the appointment by the Commissioner or his inspectors. It provides for an increase in the allowance to children of deceased members of the force from £26 per annum to £32 10*s.* per annum; moreover, the previous limitation that the family allowances should not exceed the superannuation allowance of the member has been removed. Increases are made in the maximum superannuation allowances to certain retired members of the force.

In respect of the constitution of the Appeal Board, the member's representative must either be the general secretary of the police union or an actual member of the force. Assumption of the word "detective" or "private detective" by a person not a member of the force is an offence. The Commissioner, subject to being of good behaviour and not otherwise disqualified, is to be appointed until he reaches the age of 65 years.

Grasshoppers' Extermination.—Act No. 7 is an urgent measure to cope with the threatened plague of grasshoppers. The machinery provided is by means of local committees in certain districts, to which committees are assigned the taking of proper steps for the extermination of grasshoppers with the co-operation of the Department of Agriculture. The members of a committee (or an employee or authorized person) have power of entry and the ordering of the doing of certain acts, *e.g.* the laying of baits. A local authority may assist a committee from its general fund.

Wages.—Act No. 15 permits of an alternative remedy for unclaimed wages to be proceeded under the Industrial Conciliation and Arbitration Acts in addition to the Wages Act. The Act also extends the meaning of " possession " of a crop in respect of a lien to embrace a lien whether registrable under the Mercantile Act or otherwise. By the Lien on Crops of Sugar-cane Act, 1931, sugar-cane liens were taken out of the ambit of the Mercantile Act and placed under the 1931 Act. Hence this measure applies the old s. 38 of the Mercantile Act to liens on sugar-cane so far as recovery of wages from the mortgagee is concerned.

Prisoners' Parole.—Act No. 20 constitutes a Parole Board consisting of the Under-Secretary, Department of Health and Home Affairs, as chairman, Under-Secretary for Justice, Comptroller-General of Prisons, Commissioner of Police and Government Medical Officer. The Board, subject to the provisions of the Act, has power to recommend to the Governor in Council that a prisoner or habitual criminal be permitted to go on parole in legal custody. The Board is required to take certain matters into consideration before so recommending, *e.g.* that the release is not incompatible with the welfare of society and that prisoner will, if released on parole, in the Board's opinion, remain at liberty without violating the law. The Governor in Council has absolute discretion in approving the recommendation of the Board. A parole certificate shall issue to the prisoner concerned specifying certain conditions which he is required to obey. If during the duration of the parole period the prisoner fulfils the requirements of the certificate, he is ultimately discharged. If not, or if he commits certain offences or is reasonably suspected by the police that he is getting his livelihood by dishonest means, he may be arrested and required to show cause why the parole certificate should not be cancelled. The Royal prerogative is preserved, but the Board may report on any application for the exercise thereof. There are the usual evidentiary and regulation provisions.

Drought Relief to Dairy Farmers.—Act No. 25 validates certain indentures entered into by the Secretary for Agriculture and Stock on behalf of the Government with various corporations and persons for the purpose of providing drought relief to farmers, such, for instance, as the supply of water and/or fodder. Power of enforcement of the indentures is also provided. There are wide powers of audit and the usual machinery and evidentiary provisions.

Evidence (Attestation of Documents).—Act No. 24 is a measure to provide for the cheapening and facilitation of the attestation of documents outside the State. These documents hence may be attested by a justice of the peace of the Dominion concerned. The measure is in aid of and not in derogation of the existing law.

Seeds.—Act No. 23 consolidates and amends the law relating to the sale of seeds for planting and sowing. The measure is a machinery Act having in view that seeds shall comply with certain prescribed standards.

These standards are—analytical purity, germination, impurities, pure germinating seed, weight and purity of variety or strain. Certain obligations and responsibilities are cast upon the vendor of seeds so that the buyer shall obtain seeds which comply with the required standards. Wide powers are given to inspectors to police the measure.

Government Loan.—Act No. 30 authorizes the Government to make arrangements pursuant to the provisions of the Commonwealth and States Financial Agreement Ratification Act of 1927 for the raising of a loan by the State. The amount of the loan to be raised is not to exceed £8,000,000, and such loan is for expenditure upon public works and services approved by Parliament and for deficits actual and/or prospective in the Consolidated Revenue Fund. Opportunity was also taken to give certain bodies corporate power to lend moneys to the Bureau of Industry for the construction by the Bureau or Works Board of approved works. The payment of all such loans or debentures and interest, as the case may be, is guaranteed by the Treasurer of Queensland.

Water Authorities.—Act No. 29 is purely a machinery measure applying the provisions of the Local Government Act to local authorities which are water authorities. The undertaking of the water authority is deemed an undertaking under such Act and hence arrangements for the extinguishment of overdrafts follow the provisions of the Local Government Act. By-laws, too, can be made under such Act and/or Water Authorities Acts. Budgeting provisions also apply and the measure also validates any matter or thing done in anticipation of this Act.

Health.—Act No. 31 consolidates the existing Health Acts and various allied measures in one comprehensive whole. The arrangement of the Act follows that of the Local Government Act of 1936. There have been no vital changes in the law, but amendments have been made in the light of experience. The principle underlying the measure is to make the Act itself supreme over any other State law dealing with the public health. There is wide power given to meet cases of urgency. Definite provisions deal with hookworm, and with tuberculosis. A new feature is that relating to industrial hygiene, which gives the Director-General power of investigation of all matters concerning industrial hygiene, such, for example, as the proper working accommodation for employees, safety devices, and matters generally conducive to the health and well-being of employees in industry. New provisions deal with the proper provision of sanitary arrangements at seaside resorts, and regulations may be made for the control of camping grounds (public or private) and for moveable dwellings or caravans. The measure follows in the main the principles of the repealed Acts and full co-operation between the local authority and the Director-General in health matters is secured.

Workers' Accommodation.—Act No. 27 adds further provision to the principal Act relating to proper accommodation of employees. Tanks and vessels used for storage of water for use of employees are required to be effectively screened in order to prevent access thereto by birds or animals. Kitchens must be provided with the proper-sized cooking stoves or ranges of prescribed dimensions according to the number of persons to be cooked for. Provisions are inserted as to evidence of making orders by an inspector and the service thereof, and certain minimum penalties are prescribed for offences against the Act.

Industrial Conciliation and Arbitration.—Act No. 28 is a machinery measure increasing the penalties under the Act in respect of offences

against an award or industrial agreement relating to the baking, sale, issue, carting or delivery of bread.

Fauna Protection.—Act No. 22 consolidates and amends the law relating to the protection of fauna and as to the introduction, preservation and propagation of fauna. A close season is fixed for native bears (koalas) without limit of time; in other words, koalas are absolutely protected. The measure re-enacts the previous law with various detailed amendments which experience has shown to be necessary. Wider powers of policing the measure are given to inspectors. The usual penalty and evidentiary provisions are prescribed, and there is wide power to make regulations, including, *inter alia*, prescribing royalties and the enforcement of payment thereof. The Act is read subject to the Commonwealth Constitution.

Land.—Act No. 18 makes various provisions by way of amendment in the principal Act which experience has shown to be necessary. In respect of appointments to the Land Court, the Governor in Council may designate one of such members as "President." A member of the Land Court, together with a member of the Land Administration Board, is empowered to inquire and report upon such matters dealing with land administration generally as required by the Minister or by the Governor in Council. The Land Court is to be guided by equity and good conscience. In regard to the Land Appeal Court, no specific appointment of a Supreme Court judge will be made. The Chief Justice shall notify annually the name of the judge resident at Brisbane who will constitute the Land Appeal Court for the Southern District, and the Northern and Central judges shall, *ipso facto*, act accordingly. Provision is also made in case of inability to constitute the court and for the change of venue of the Land Appeal Court where considered necessary. The Land Appeal Court is to be guided by equity and good conscience. Formal amendments are made in respect of insolvency in partnerships and in joint ownership. Attention is also given to conservation of timber in State forests and national parks in respect of mining. For instance, the holder of a miner's right must observe the law in cutting down timber on Crown lands, roads or reserves as authorized by the Mining Acts—in other words, he is only allowed to cut and remove timber for mining purposes under the Mining Acts.

Applications for a mining lease over State forests, timber reserves and national parks are required to be submitted to the Minister, who will refer the same to a committee of persons representative of the Mines and Lands Department. They shall report as to whether the public interest will best be served by granting or refusing the application, but the Governor in Council has final determination. These provisions shall only apply in proclaimed areas, and hence will not be State-wide.

Provisions also permit of the diversion of watercourses and the reclamation of land in the public interest.

State Electricity Commission.—In 1935, the Government appointed a Royal Commission to examine the existing position as regards the generation, supply and control of electricity within the State and to report to the Government what in its opinion was necessary for the future economic supply of electricity and the economic extension of that supply. The Royal Commission furnished a valuable report on the whole matter, and this measure was framed to a large extent on its recommendations. Shortly, the measure aims at promoting planned extension and develop-

ment so that the social and economic advantages that flow from a wide diffusion of low-priced electricity may be secured. The principle of State control with ultimate public ownership is established, and the measure will enable public ownership to be accomplished satisfactorily and equitably in a comparatively short period.

The Act, No. 26, in short provides for the following objects : a State Electricity Commission will be established consisting of four members, one or more of whom may be a full-time officer, or officers. The present Electricity Board will be abolished, its members shall go out of office and its powers, authorities and functions will vest in the Commission. The Commission will have power to review the price of electricity both in regard to charges to consumers and in respect of public lamps. Any determination of the Commission is subject to an appeal to the Industrial Court constituted under the Industrial Conciliation and Arbitration Acts. The Commission will investigate applications made for Orders under the Electric Light and Power Acts. In its investigation the Commission will have regard to various matters, one of which is the ultimate co-ordination and/or unification of the proposed undertaking with any other electric supply undertaking in the State. The Governor in Council, however, has the final responsibility in determining whether or not such order is to be granted. The Commission is given wide power of inquiry into such matters as co-ordination, standards of plant and equipment, and efficient interconnexion of undertakings. It may approve of electric apparatus and equipment and prohibit apparatus deemed by it unsafe. It is also given general power to advise an electric authority on the expenditure, maintenance and economics of its undertaking with a view to securing efficiency therein. The acquirement of lands and the establishment of works and carrying out of extension and addition to works by an electric authority will be subject to approval of the Commission except such works as are of a routine character. The measure then seeks to accomplish a co-ordinated scheme of electrical development for an area in the south-eastern portion of Queensland. With a view to utilizing the services already existing and thus avoiding, as much as possible, duplication and concomitant needless expenditure, the Commission is given power to negotiate an agreement with the City Electric Light Company Limited, which has been selected as the control point for co-ordination. Before the company can become the co-ordinating authority operating under the control of the Commission, it is required to amalgamate with the Ipswich Electric Supply Company Limited and to acquire on the terms laid down in the schedule the undertakings of various electric authorities in the area concerned. The purchase price of such undertakings must, however, be approved by the Commission. If an agreement is not possible between the electric authorities and the company, the Governor in Council may acquire the undertakings. When the above matters are completed, the company will, on surrendering all its existing orders (which expire on varying dates), receive a consolidated order for the area concerned for such period as is agreed upon between the Commission and the company, not being less than ten nor more than fifteen years. However, the whole agreement in the final analysis must be approved by the Governor in Council, and until such approval is signified by Proclamation in the *Gazette* of such agreement, no agreement between the Commission and the company has any force or effect. Moreover, if such agreement fails to eventuate, the agreements of acquisition by the company or, as

the case may be, the Governor in Council of the other undertakings concerned likewise are void and are of no effect. It is distinctly stated that the company is required to sell to the Crown its undertaking for the co-ordinated area at the expiration of the franchise period, or at the expiration of any year thereafter according as the Crown may elect to purchase; but until the purchase eventuates the said company shall have the exclusive right to supply electricity within the area subject to certain provisions in the Act contained. Hence, if the agreement eventuates an Order in Council will issue to the company to supply electricity in such defined area. Power is also given in the measure to extend the area where no authority is operating, or to include within the area the undertaking of an electric authority purchased by the company or that of an undertaking acquired by the Governor in Council. In the schedules to the measure are prescribed the general basis of purchase of the other undertakings concerned by the company and the basis of the purchase by the Crown of the undertaking of the company on the expiration of the franchise. The Commission has authority to consider the utilization of the line to the Somerset Dam as a transmission line for the co-ordinated area and may require this line to be purchased and included in the consolidated area; but existing rights are preserved. Provisions ensure that the price for electricity outside the city of Brisbane area will be properly safeguarded, and in like manner will ensure that the price for electricity payable by Brisbane consumers will not be prejudiced. Various powers are given to the Commission in respect of electric or transmission lines and in respect of way-leaves having in view the public interest and economy of working of undertakings. Provisions deal with the furnishing of returns, accounts and audit of books of the Commission, the power of inspection of books and documents where necessary for the proper administration of this Act, and there is also general regulation making power. For the purpose of enabling the Governor in Council to exercise his right of purchasing electricity undertakings (including the consolidated undertaking of the City Electric Light Company Limited) authority is given to the Governor in Council to issue debentures which shall be guaranteed by the State. Various machinery provisions in the measure enable the full operation of the Commission, and in this connexion the Electric Light and Power Acts and this measure are read one with another.

4. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, Esq., M.A., LL.B., *Parliamentary Draftsman.*]

Of the Acts passed by the Parliament of South Australia in the session of 1937 the following are the most important.

Constitution.—In 1933 an Act had been passed for extending the life of the then existing House of Assembly from three to five years. In 1937, Act No. 2381 was passed for making a five-year term for the House of Assembly a permanent feature of the Constitution of the State.

The same Act also contains an interesting innovation, in the form of a clause providing for the establishment of a Joint Standing Committee of both Houses to examine and report to each House upon all regulations, rules, by-laws and orders made pursuant to Acts of Parliament. Thus has the "New Despotism" made its influence felt in South Australia.

Electoral.—Act No. 2379 enables an elector to vote in person, by the procedure applicable to absent voters, at any polling booth in the State,

whether within or outside the electorate for which he is enrolled. The Act also deals with the system of grouping the names of candidates on ballot papers. In the multiple electorates of the Legislative Council, the law allows the candidates belonging to each political party, if they so desire, to have their names printed in a separate group on the ballot paper, and prior to the amending Act of 1937 the names in each group were required to be printed in alphabetical order. Under this Act, however, the candidates are themselves entitled to determine in what order their names will be printed within each group. This matter is of importance to candidates, because under the preferential system of voting now in force the name which appears first on the ballot paper has the greater chance of attracting first preference votes.

Amendments Incorporation.—Act No. 2353 repeals the Amendments Incorporation Act, 1914, which provided that when an Act was being reprinted any amendments made by subsequent amending legislation could be incorporated in the principal Act pursuant to a certificate from the Clerk of Parliaments. The new Act authorizes the Attorney-General to reprint amended Acts with the amendments incorporated, and to make certain minor alterations in the title to the Acts and to references therein. Acts reprinted under this Act are to be judicially noticed.

Consolidation of Regulations.—For the purpose of encouraging Government Departments to have their regulations consolidated, Act No. 2377 provides that regulations which are purely consolidating need not be laid before Parliament and shall not be subject to disallowance by either House.

Statute Law Revision.—No. 2346 is the last of the Acts by which the statute law of South Australia was revised prior to the new edition of the whole of the public statutes. The Act repeals a number of obsolete Acts and ordinances and makes some minor clerical amendments.

Juries.—By Act No. 2356 a judge is empowered to excuse a juryman from further attendance at any trial if by reason of any matter of special urgency or importance he considers it desirable to do so. In view of the provision in the South Australian law which allows majority verdicts in criminal cases, exemptions under the Act can be granted without inconvenience. The Act also exempts from jury service pilots, navigators and wireless operators of aircraft who are duly licensed under Commonwealth law and are employed in public aerial transport services.

Manufacturing Industries Protection.—Act No. 2355 empowers the Governor to protect proprietors of factories against claims for noise or vibration. The Governor, if he considers it desirable in the public interests to do so, may proclaim " protected areas." When an area is so proclaimed no person will have any legal remedy for noise or vibration arising from a factory within that area, unless he shows that he became the owner or occupier of premises affected by the noise or vibration before the factory commenced operations, or unless he shows that the occupier of the factory has failed to take reasonable precautions to prevent the noise or vibration from causing a nuisance. No criminal proceedings can be taken for noise or vibration emanating from a protected area.

Air Navigation.—Act No. 2352 provides that the air navigation regulations made by the Commonwealth Government and which govern interstate aviation and aerodromes used in connexion therewith shall also apply to intra-state flying within South Australia, and to aerodromes

over which it is competent for the South Australian Parliament to legislate.

Crown Lands.—Act No. 2363 makes a number of amendments to the Crown Lands Act, 1929–36. It empowers the Governor to reserve Crown lands for aerodromes to be established by municipal or district councils. It also provides that where the Government buys land for closer settlement and the land is in an undeveloped condition, it may be allotted to settlers under agreements for sale and purchase containing specially easy terms as to the payments to be made during the first ten years of the agreements.

Federal Air Roads Agreement.—Act No. 2341 ratifies an agreement made between the Commonwealth Government and all the States of Australia, under which the Commonwealth agrees to pay to the States for the construction of roads over a period of ten years a portion of the money raised by customs and excise duties imposed on motor spirit.

Financial Emergency.—Act No. 2342 removes the last of the reductions in Government expenditure which were made by statute in 1931 as the result of the then existing economic situation. The Act abolishes the reduction of 16 per cent. in civil service pensions and police pensions as from July 1, 1937.

Highways.—Act No. 2350 extends for another year the provisions which enable the Government to pay into the general revenue of the State moneys derived from motor-vehicle taxes which normally are required to be paid into the Main Roads Fund and used for the construction and maintenance of roads. It also releases district and municipal councils from the obligation to contribute money towards those main roads, the construction and maintenance of which have been taken over by the State Government.

Institute of Medical and Veterinary Science.—Act No. 2372 provides for the establishment of an Institute of Medical and Veterinary Science which will carry out the following functions:

It will do work in pathology, bacteriology and bio-chemistry for the Adelaide Hospital, medical practitioners and the public. It will provide lecture-rooms and equipment for the teaching of medical subjects by the staff of the University of Adelaide; it will conduct researches into the diseases of human beings and animals and furnish the Government with services in pathology, bacteriology, bio-chemistry and other allied subjects. The treasurer must pay into a Trust Fund for the purposes of the institute the sum of £10,000 per annum for five years after the Act comes into operation; and the institute will be entitled to retain all fees received by it for work done for the public.

The institute is to be under the control of a council of six persons and managed by a director.

Stamp Duties.—Act No. 2359 makes some miscellaneous amendments to the law relating to the duty payable on totalizator receipts, and on money paid for admission to amusements. The Treasurer is empowered, in respect of four race meetings per annum, to exempt the promoters of the meetings from totalizator duty, if the profits of the meetings are devoted to charitable purposes.

The Act further exempts from amusements duty any payment for admission not exceeding one shilling. As regards amusements to which persons are admitted through turnstiles, the Act abolishes duty on individual payments for admission, and substitutes a provision requiring

the promoters to pay, by way of tax, one-seventh of the total amount collected from persons entering through turnstiles.

Whaling.—Act No. 2361 gives effect to the provisions of the convention relating to whaling signed at Geneva on September 24, 1931. The Act applies only to South Australia and South Australian waters. It enacts that no ship can be used for taking whales and no factory used for treating the carcasses of whales, unless the owner or charterer of the ship or the owner of the factory is licensed. Licences may contain any conditions imposed by the Minister. The taking of right whales and immature whales is prohibited.

5. TASMANIA.

[*Contributed by* H. J. Solomon, Esq., B.A., LL.B.]

In the session 1 & 2 Geo. VI eighty Acts were passed by the Tasmanian Legislature occupying 514 pages in the sessional volume. Of these 514 pages, however, no less than 173 pages are occupied by a schedule of amendments to various Acts which have been effected by proclamation under the provisions of the Statute Law Revision Act, 1934. During the past twelve months the final volumes of the Tasmanian Consolidated Statutes have been issued, this consolidation being now complete. The more important Acts of the session of 1937 are summarized below.

Air Navigation.—For a considerable time difficulties have been experienced in Australia, owing to the control of air navigation not being within the legislative powers of the Commonwealth under the Constitution.

An effort was made about 1920 to induce the States to refer the question to the Commonwealth Parliament under s. 51 of the Constitution. An Act for that purpose was passed in Tasmania, but no unanimity could be reached among the States. The matter became one of importance when, in the case of *R.* v. *Burgess, ex parte Henry* (55 C.L.R. 608), certain regulations passed by the Commonwealth to give effect to the International Air Convention were held *ultra vires* by the High Court. The present Act, No. 14 (after repealing the Act of 1920), applies to intra-state air navigation the regulations from time to time in force under the Commonwealth Air Navigation Act, 1920–36.

Cancer Committee.—By Act No. 66 a committee is established to co-ordinate, promote and subsidize research into the causation, prevention and treatment of cancer and to assist sufferers therefrom.

Farmers' Debt Adjustment.—Act No. 9 repeals the Farmers' Debt Adjustment Act, 1935, which provided means of adjusting farmers' unsecured liabilities and to a limited extent secured liabilities. Power was conferred on the Board administering the Act to reduce interest rates and rent and to prohibit the calling in of mortgages and termination of leases for any period up to five years. The Board was empowered to advance not more than 7*s.* 6*d.* in the £ towards any composition, the whole amount of which was repayable over a period of years determined by the Board. The amount required to pay the balance of any composition in excess of 7*s.* 6*d.* was provided by the farmer generally by annual instalments. The new legislation provides : (1) for valuation of the farmer's assets by a competent valuator, with provision for a second valuation if the creditor or the farmer disagrees with the first valuation, and finally the right of appeal to a judge before a debt secured on the assets is extinguished ; (2) for obtaining agreement between farmer and creditors by conciliation. If agreement is not reached at the first meeting, a second

and third meeting may be held with the object of evolving a scheme which is acceptable to all parties; (3) for advances by the Board to cover the whole amount required to meet payments to creditors in respect of any scheme; (4) by implication from the definition of a plan of debt adjustment, for the payment of varying amounts to various classes of creditors; (5) for the extinguishing of a secured debt which is in excess of the value of the security if the creditor will not accept the scheme which has been agreed to by unsecured creditors; (6) for the reduction of interest rates and rents by agreement with the creditors rather than by mandatory action of the Board.

Generally the Act provides a greater measure of relief to farmers and assistance to creditors, is more flexible in its operation and less difficult to administer than the repealed legislative.

Gaol Farm.—The Kilderry Farm Gaol (Land Reservation) Act (No. 61) reserves certain lands adjacent to the River Derwent for the purposes of a Farm Gaol, in pursuance of a scheme of developing the "Honour system" among prisoners. It is understood that the system, giving a reasonable measure of liberty and healthful surroundings to prisoners who are willing to co-operate, has been very successful.

Guest Houses Registration.—In an attempt to assist the tourist traffic a Board was set up by Act No. 57 to keep a register of guest houses. The owner of any guest house can apply for registration, and if this is granted the name of the guest house is put on a list which is available to tourists. It is understood, however, that so few guest-house owners availed themselves of the Act that it is intended to make registration compulsory.

Jury.—Act No. 22 adds to the list of exemptions from jury service "commercial pilots, navigators and radio operators (licensed as such respectively) and employed on any recognized public transport aerial service."

Licensing.—By Act No. 55 substantial minimum penalties are provided in cases where contraventions of the principal Act have occurred on a Sunday. There is, however, a power in the court to ignore the statutory minimum (which varies according to the offence from £5 to £20) if satisfied that the offence was committed by accident or mistake and without intent to evade the provisions of the Act—a very desirable power, since in many of these offences proof of *mens rea* is not necessary.

Mortgage Interest Reduction.—By Act No. 5 the provisions of the Act of the same name of 1931 preventing a mortgagee from enforcing his security so long as interest is kept paid up are extended for a further year.

Rural Rehabilitation.—Act No. 56 is mentioned, since it would, if carried out, be an important enactment. It is, however, impossible to deal with it briefly. As it has not as yet been put into operation, any summary is therefore withheld until the Act has been tried out.

Water Resources Investigation.—For many years the authorities in Tasmania have been alive to the potential value of the water resources of the State, both as to the generation of hydro-electric power and for purposes of irrigation. In this regard it is worthy of note that by the Hydro-electric Commission Act, 1929 (20 Geo. VI, No. 83), s. 50, no presumptive rights to water in any lakes, falls, rivers or streams can come into existence after the commencement of that Act. By Act No. 1 now summarized the Hydro-electric Commission is authorized to make an investigation of the water resources of the State and to report to the

Governor the nature, extent and description of the means to be adopted to secure the greatest possible economic use thereof, and the extent to which such resources should be placed under the control of a statutory body to be constituted for that purpose.

6. VICTORIA.

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.B.]

Legislative activity during the year 1937 was broken by a general election. The result was two parliamentary sessions : the Third Session of the Thirty-second Parliament and the First Session of the Thirty-third Parliament. The former session was short ; it led to the passing of seven Acts only (Nos. 4466–4472) which are of merely local colour. In the latter session sixty-one measures were added to the statute-book (Nos. 4473–4533), but the vast majority of them, important though they may be locally, are of purely Victorian concern, and only thirteen are dealt with below as containing matters of general interest. Most of those thirteen, with the notable exception of No. 4533, which deals with parliamentary reform, conform to one of the two types which go to make the great bulk of modern legislation : the one relating to the regimentation of commercial and professional dealing ; the other symptomatic of the ever-widening ambit of social service.

Local Government (Celebrations).—No. 4481 is a short but notable Act which can be taken as indicative of the sentiment in this State in a double aspect—loyalty towards the Crown and pride in local achievement. It empowers the council of any municipality to apply money towards the celebration of the coronation of His Majesty King George VI ; and at the same time empowers any such council to apply money towards the celebration of the centenary of any event of historical interest to the municipality or the preparation and publication of historical records of the municipality.

Testator's Family Maintenance.—No. 4483 extends a principle embedded in legislation in this and other States.[1] In the first place, it removes the age limit of children who may benefit under its provisions (previously " child " for the purposes of the Act did not include a male person over the age of 18 years or a female person over 21 or married), brings a widower within the scope of the benefits and does away with the limitation on the amount that may be provided and which previously was not to exceed in any case £1,000 or be more than the interest or income receivable as on an intestacy. In the next place, on the administrative side, it empowers the court to order a lump sum or periodical payments, and gives a discretion as to the adjustment among the beneficiaries of any provision made. Lastly, the Act extends the time within which application for an order is to be made. Before, the application had to be made within six months after the grant of probate or letters of administration *c.t.a.* Now, the court may extend the period on certain conditions, but in no case beyond the final distribution of the estate, and distributions made prior to the application are protected.

Stock Medicines.—The title of Act No. 4488—" to provide for the registration of stock medicines and to regulate the sale thereof "—sufficiently describes its object. It is in line with the scheme of administrative control of agricultural and dairying commodities which has become a

[1] As to which see *Bosch* v. *Perpetual Trustee Co.*, [1938] A. C. 463.

recent feature of legislation, *e.g.* seeds and fungicides, dairy products and milk. To this end it contains the well-recognized machinery—establishment of a Board, registration of stock medicines, labelling of packages, advertisements, together with the necessary supervisory powers such as that of inspectors to examine stock medicines and to take samples.

Maintenance.—No. 4497 amends that part of the Maintenance Act, 1928 (No. 3722), which deals with the provision of maintenance to mothers through the Children's Welfare Department. It affords additional relief to certain widowed mothers, and extends the benefit of the Act to stepmothers as well ; the latter provision apparently being a legislative recognition of the value of a stepmother to the State in modern times, whatever were the feelings of the ancients as to the *iniusta noverca*. Seemingly, *apud novercam queri* has become a lament of the past.

Goods.—No. 4501 repeals that part of the Goods Act, 1928 (Part V of No. 3694), which made provision with respect to merchandise marks. In its stead it substitutes a new part which substantially re-enacts such of the provisions of the original part as were not already sufficiently covered by Commonwealth or other Victorian legislation, and includes new provisions relating to the labelling of bedding, upholstered furniture, artificial or imitation leather and certain articles of wearing apparel, including boots and shoes, to be specified by proclamation.

Air Navigation.—Act No. 4502 provides for the extension to air navigation within Victoria of the Commonwealth Air Navigation Regulations passed and to be passed under the Federal Air Navigation Act, 1920–1936, except, of course, so far as those regulations are by virtue of that Act itself applicable to air navigation within the State. The decision of the High Court of Australia in *The King* v. *Burgess* [1] supplies the motive for the measure.

Medical.—No. 4504 is a short but important Act in relation to the medical profession. It forbids a medical practitioner from demanding payment or rendering accounts or collecting fees for professional services rendered by another medical practitioner, or from sharing or agreeing to share fees with another medical practitioner, except where that other practitioner is a partner, employee or *locum tenens* of the first-mentioned practitioner.

Stamps.—Act No. 4509, a revenue measure, repeals those provisions of the existing Stamps Act which impose a duty upon contract notes. Instead it substitutes a duty on the transfer of marketable securities and rights in respect of shares (which latter term has its own definition in this Act), and on directions as to certain shares ; and it reduces by 20 per cent. the amount of duty payable on the conveyance or transfer on sale of real property. The details by which the former principle is secured are complex and somewhat lengthy. Shortly, they comprise provisions by which transfers of shares, etc., liable to duty are not to be registered, etc., unless duly stamped ; instruments of transfer are to be retained by companies ; statements and payments by stock and share brokers are to be furnished monthly to the Comptroller of Stamps ; as well as provisions in regard to the issue and allotment of shares by direction, and the computation of the value of certain marketable securities or rights in respect of shares.

Stock and Share Brokers.—Act No. 4510, prompted by the failure and defalcations of prominent brokers in this and other States, applies and extends to them much of the principle of the legislation relating to

[1] (1936), 55 C.L.R. 608.

solicitors which was enacted in 1936 in the Legal Profession Practice Act, No. 4418.[1] It requires brokers, where moneys are received from a client for the purchase of securities before the securities purchased are received by the broker, to pay those moneys into a trust account, and to pay also into such trust account such moneys as are received from the sale of securities for a client as are not promptly paid to, or as directed by, the client. Moneys in the trust account are to be retained therein until so paid and, without prejudice to any lawful claim or lien which the broker may have thereon, are made not available for payment of the broker's debts. The Act further requires a periodical audit and report to be made concerning brokers' books and accounts, specifies the nature of the books, accounts and records which must be kept by brokers, and prescribes the proceedings to be taken if the state of affairs disclosed by an audit of a broker's account is unsatisfactory, including a further audit at the direction of the Attorney-General and the institution of proceedings at the instance of that officer. Banks are declared to be under no additional obligation as a result of the Act. Provisions as to audits, penalties and regulations complete the Act.

Workers' Compensation.—No. 4524 establishes a new departure for Victoria in this branch of the law. The Act sets up a Board, to be composed of a county court judge as chairman, with two others, representatives, in effect, of employers and employees, and takes away jurisdiction over all workers' compensation matters from the courts and vests it exclusively in the Board. In one aspect only have the courts any jurisdiction left; the Board may, *mero motu*, and must, at the request of a party, state a case on a question of law for the determination of the full court of the Supreme Court. Otherwise its decision is final and unappealable, and prohibition and certiorari do not lie. Ancillary to this policy the Act contains certain details as to the scope of the Board's jurisdiction and certain machinery and transitory provisions. Further, it establishes a fund, a Workers' Compensation Board Fund, to provide for the administrative expenses, to which fund insurers and certain employers are required to contribute. Lastly, the amount payable for ambulance, medical, nursing and hospital expenses is increased.

Health (Housing).—No. 4530 re-enacts and amends certain provisions already existing relating to the condemning of houses as unfit for human habitation. In effect, it extends the scope of supervision over such houses and makes that supervision more drastic. Its importance, allied with the Housing Act, 1937, No. 4531 (*infra*) lies in this, that it shows the beginning of an earnest and welcome, if overdue, campaign against slum dwellings.

Housing.—No. 4531 constitutes a Housing Commission, and in general enumerates the objects for which the Commission is constituted and its functions. For the proper operation of the Commission the Act makes provision with respect to certain general powers and the proceedings of that body. The Commission is purely investigatory, having power to formulate and submit schemes in respect to adequate housing for persons of limited means and the reclamation of insanitary areas, and to make proposals as to legislation which it considers desirable. In other words, the Act is part of a slum-abolition scheme.

Constitution.—Act No. 4533 was reserved for the Royal Assent, which was proclaimed on March 30, 1938. Its most important provision is that

[1] See *Journ. Comp. Leg.*, Third Series, vol. xx, pt. ii, p. 97.

part of it which effects a new method of settling disagreements between the two Houses of Parliament in Victoria—the Legislative Council and the Legislative Assembly.[1] The Act, subject to certain periods of time, provides that after the first rejection of any Bill, with the exception of certain constitutional Bills, by the Legislative Council, the Legislative Assembly is dissolved; after the second rejection of the Bill by the Council, the Council is dissolved; and after the third rejection of the Bill by the Council, a joint sitting of both Houses is to be held, and if at such a joint sitting the Bill is passed by an absolute majority it shall be presented for the Royal Assent. In the next place the Act enacts that the annual Appropriation Bill shall deal only with appropriation, and requires absolute majorities at the second and third readings of certain classes of Bills. Lastly, the Act reforms the Legislative Council. It reduces the age (from 30 to 21) and property qualification of members of the Council; reduces the amount to be deposited by candidates for election to the Council; abolishes plural voting at Legislative Council elections; and amends, in some unimportant particulars, the provisions of the Legislative Council Elections Act, 1935 (No. 4350), relating to compulsory and absent voting.

7. WESTERN AUSTRALIA.

[*Contributed by* C. E. Stow, Esq.]

Fifty-six Acts were passed in 1937. Of these the following may be noted as dealing with matters which are not purely of local interest:

Air Navigation.—Act No. 6 makes applicable to Western Australia air navigation regulations made by the Commonwealth. The regulations are to be deemed to be incorporated in the Act, and authorities in whom powers are vested under the regulations have such powers confirmed by the Act. This Act is the result of a decision of the High Court which declared invalid, on constitutional grounds, certain Commonwealth legislation dealing with civil aviation. It is worthy of note that the State has not vested any legislative power in the Commonwealth, as it could have done under the Constitution, but has merely given federal regulations the force of law until Parliament sees fit to provide otherwise.

Judges' Retirement.—Every judge of the Supreme Court appointed after the passing of Act No. 8 is to retire from office on reaching the age of 70 years, but he may complete the trial of any action which he may have entered upon before reaching that age. Previously there was no retiring age fixed in respect of Supreme Court judges.

Anniversary of the Birthday of the Reigning Sovereign.—The Governor is empowered by Act No. 9 to declare by proclamation that any holiday which is provided for under any Act, industrial award or industrial agreement in respect of the birthday of the reigning Sovereign shall be observed on a day specified in the proclamation in lieu of the day provided for.

Jury.—Act No. 5 exempts from jury service certain pilots and other members of the crews of aircraft engaged in any public air transport service for the carriage of mails and passengers.

Income-tax.—Act No. 13 results from a Commonwealth Royal Commission which had for its object the securing of uniformity in Commonwealth and State legislation in connexion with income-tax as well as the simplification of the law and the removal of anomalies. The Act is a

[1] The method previously adopted may be seen in the Constitution Act Amendment Act, 1928, No. 3660, s. 37.

lengthy one and, since it covers the whole field of income-tax assessment, a useful summary of the provisions would not be possible here. For the most part the Act follows the Commonwealth Act, which was briefly reviewed in this *Journal* last year, but, in some details, the uniformity which was sought was not found to be expedient from the point of view of the State Treasurer.

The Dividend Duties Act and its amendments are repealed and the taxation of companies is dealt with in the new Act. Since the Dividend Duties Act had long ago become an Act dealing in effect with taxation of the income of companies, the removal of the misleading title from the statute-book must be regarded with some pleasure.

Nurses' Registration.—A novel provision in No. 14, amending the Nurses' Registration Act, is that prescribing a penalty for the wearing by any unregistered person of a nurse's cap.

Whaling.—Act No. 15, which repeals the Whaling Ordinance of 1860, extends to Western Australian territorial waters, to ships registered in Western Australia and to other ships over which the State has jurisdiction. The taking or killing of right whales, calves, immature whales or any female whale accompanied by a calf is prohibited, and whaling ships and factories for treating whales must be licensed. A licence is not to be granted in respect of any ship not registered in Western Australia unless it is already registered under a similar Act of the Commonwealth or another Australian State or unless it is duly authorized by the Government of the country whose flag it flies to engage in whaling. Licences are to be granted on certain conditions, including conditions that the fullest possible use is to be made of the carcass, that prescribed particulars are to be kept of every whale taken and that returns in the prescribed form are to be furnished to the Minister. Notwithstanding the provisions of the Act, permits may be granted authorizing the taking of whales for purposes of scientific research or other special purposes.

The remuneration of crews of whaling ships is not to depend on results unless it is so dependent upon such factors as the size, species, value and yield of oil of the whales taken and not upon the numbers of whales taken.

Officers appointed under the Act are given wide powers of entry and inspection, including a power to remain on a whaling ship and to receive subsistence and accommodation for which the State is to pay at prescribed rates.

Timber Industry Regulation.—Act No. 20, amending the Timber Industry Regulation, 1926, provides for registration of yet another trade. Sawmills must now be registered, and the use of an unregistered sawmill is prohibited.

Hire-purchase Agreements.—The principal Act is amended by No. 24 to make it obligatory for the vendor (to use the description applied by the Act to a person who lets goods under hire-purchase agreement), upon taking possession under the powers in a hire-purchase agreement, to serve on the purchaser an account prepared in accordance with the provisions of the principal Act and also to serve a copy of the relevant portion of the principal Act.

The principal Act (which was designed to give to purchasers something in the nature of an equity of redemption in the hired goods) provides that a request for an account must be made by the purchaser within a limited time after seizure of the goods by the vendor. Some purchasers through

ignorance or inadvertence lost the benefit of the Act, but the amendment leaves little room for complaint by a purchaser who fails to enforce the rights given to him.

Mining.—Act No. 29 empowers the Government geologist and his officers to enter upon any land for the purpose of making geological investigations or surveys in the course of official duties. Specimens and samples essential to such investigations or surveys may be taken from any land.

Moneylenders.—Act No. 31 is the result of the report of a Royal Commission on moneylenders and moneylending. The Moneylenders Act, 1912, is amended in a number of directions, the most important amendment being effected by the simple method of substituting the word " or " for the word " and." The well-known provision enabling a court to reopen a transaction and take an account may now be exercised if it appears that the interest or other charges is excessive *or* that the transaction is harsh and unconscionable. The old system of automatic registration of moneylender upon application by him is abolished, and every moneylender must now obtain annual registration from a magistrate sitting in petty sessions. Registration is to be refused in the absence of proof of good character of the applicant or if it is shown that he is not a fit person to be registered or is under disqualification or has in any period of twelve months been twice convicted for offences under the Act.

No contract for repayment of money lent by a moneylender or interest thereon and no security given by the borrower is to be enforceable unless a note or memorandum in writing of the contract has been signed by the borrower personally before the money is lent or the security given and unless a copy is sent to the borrower within seven days of the making of the contract. The note or memorandum must contain all the terms of the contract, including the date of the loan and particulars of the interest.

The rights of *bona fide* purchasers without notice are protected, but the lender must indemnify the borrower or surety against liability. The direct or indirect charging of compound interest is prohibited.

Provision is made for a rebate of interest in case of repayment of a loan before the due date, the rebate to be calculated by formula set out in the Act if the interest is not expressed in terms of a rate.

Any bill of sale to secure a loan to a moneylender which would be voidable under the Bills of Sale Act, unless duly registered as a bill of sale, is to be absolutely void unless duly registered after due notice. Provision is made for avoidance of hire-purchase agreements taken by way of security unless the same are registered as bills of sale after notice.

A moneylender's registration may be suspended or cancelled upon conviction of an offence against the Act.

The Act prohibits advertisements by moneylenders unless the advertisements are confined to certain specified particulars.

Health.—Act No. 32, amending the Health Act, 1911–35, contains, in addition to a number of minor amendments dealing with dwelling-houses and sewerage, a provision that a local health authority may require the owner of a house to render the premises clean or to repair the same if the authority is of the opinion that it is unfit for habitation because of uncleanness or bad repair. The Act also contains a new provision requiring the death of any woman, as the result of pregnancy or child-birth, or any complications arising therefrom, to be reported to a magistrate by the medical practitioner or nurse in attendance at the time of

death. The magistrate, in conjunction with a person nominated by the British Medical Association and another nominated by the Trained Nurses Association, shall, if such course is considered to be necessary, proceed to hold a private inquiry into the cause of death. An inquiry is not to be necessary if an inquest is held under the Coroners Act. When an inquiry has been held the magistrate must report to the Minister and must state in his report whether there was negligence on the part of any person concerned in the treatment or nursing of the deceased.

Sales by Auction.—Act No. 43 is aimed at the abolition of the practice known as " splitting of lots " at auction sales of cattle or farm produce. It is now an offence for any person to induce another to abstain from bidding at an auction sale of cattle or farm produce by means of an express or implied promise that he, if successful as a bidder, will give the other person the right to take over, as purchaser through the auctioneer, any part of the cattle or produce purchased, or that he will decide by toss of coin or drawing of lots who is to become the owner of all or any part of the property purchased. The other party to any such agreement is also guilty of an offence, and the Act contains provisions prohibiting entry of the name of any person in an auctioneer's records in pursuance of any arrangement contrary to the Act. A statement of the material parts of the Act must be read or exhibited by the auctioneer at every sale by auction of cattle or farm produce.

Electricity.—Act No. 45 reconstructs the machinery in connexion with the generation and supply of electricity to the public. The Electric Lighting Act of 1892, which had become rather obsolete, has been repealed, but many of its provisions have been re-enacted with amendments. The outstanding feature of the Act is the constitution of an Electricity Advisory Committee with wide powers, including the power to devise schemes for co-ordinating (having regard to the efficiency and economy and the future progress of the State) the supply of electricity throughout the State. Local governing authorities are given power to operate generating stations in their districts or to grant sole concessions to concessionaires on such terms as they shall think fit, but no new generating station or main generating unit can be constructed or installed without the permission of the Minister. A local authority requiring the Minister's permission must prepare plans and specifications which are to be submitted to the Advisory Committee for report. Two or more local authorities may now combine in the carrying out of joint schemes. The Act imposes upon supply authorities the duty to maintain efficient services and to take precautions against danger of fire or other risks.

Meat Industry (Treatment Works) Licensing.—Act No. 46 prohibits the operation of any works for the treatment of sheep, pigs or cattle slaughtered prior to export or for the preparation of carcasses of sheep, pigs or cattle for export without a licence issued by the Minister. The meat export industry is an important one for the State, and the object of the Act appears to be the keeping up of the standard of export carcasses. The holder of a licence is obliged to treat sheep, pigs and cattle for members of the public at prescribed rates. The Governor may prescribe general conditions which may be attached to licences, and the Minister may, in his discretion, revoke or suspend any licence if, in his opinion, the conditions have not been complied with.

Superannuation.—Act No. 48 is probably of interest only as an example of retrospective legislation. Certain Government officers were appointed

to additional subsidiary positions in respect of which rather substantial increases were made in their salaries. After a comparatively short time these officers were retired, having reached the age limit, and it was found that their pensions were extraordinarily great as a result of the additional salaries from the subsidiary offices. Following upon a good deal of discussion in Parliament, a Private Member's Act was passed whereby the pensions were henceforth to be fixed and paid without regard to the additional salaries. The wording of the Act covers any similar position which might arise in the future in connexion with certain specified offices, but it was obviously directed towards rectifying the position which had already arisen.

Bread.—The weighing of bread by official inspectors was in the past carried out in the streets where loaves in the bakers' carts were weighed in batches. The amending Act, No. 49, provides that dough intended to be made into bread shall be weighed out in the bakehouse and weights of dough are prescribed in connexion with each specified loaf of bread; *i.e.* dough which is intended to be baked as a one-pound loaf must weigh between eighteen and twenty ounces. Since the passing of the Act there has been a great deal of controversy regarding the effectiveness of the new provision. The former provision regarding weighing on the carts has not been totally repealed, but amendments have rendered it virtually ineffective. The amending Act contains numerous other provisions of local interest only.

Pharmacy and Poisons.—Act No. 51 amends the Pharmacy and Poisons Act, 1910, in numerous particulars. Amongst the amendments are provisions incorporating the Council of the Pharmaceutical Society and requiring every pharmaceutical chemist to obtain a licence to practise from the Council. No chemist, whether holding a licence or not, shall practise as such in more than two places of business concurrently. No licence is to issue to a company or friendly society, but a licence issued to a chemist may be used for the benefit of a company or friendly society. The sale or hawking of poison or narcotic drugs in any street or public place or from house to house is prohibited. No person is to install any automatic machine for the supply of any drug, medicine or poison or otherwise permit the supply thereof by means of an automatic machine.

Bush Fires.—Most of the provisions of the Bush Fires Act, 1902, which has been repealed, are repeated in Act No. 55. A new provision enables local authorities to expend their ordinary revenue in the purchase of equipment for fighting bush fires and in maintaining or subsidizing bush fire brigades. Local authorities may also appoint bush-fire control officers for the purpose of preventing the outbreak of bush fires and controlling and extinguishing any bush fires which may break out. Bush-fire officers are given wide powers of entry upon land and pulling down or destruction of buildings and other improvements in the performance of their duties. The Act also empowers local authorities to establish bush-fire brigades for the sole purpose of the control of bush fires.

8. PAPUA.

[*Contributed by the* Hon. Mr. Justice Gore.]

In 1937 fifteen Ordinances were passed. Those worthy of comment are referred to below.

Registration of Births.—No. 4 amends the Registration of Births,

Deaths and Marriages Ordinance, 1912–37. Notwithstanding the failure to register a birth within the statutory period of three years, the birth may be registered if some person with knowledge of the birth furnishes particulars verified by statutory declaration to the satisfaction of the Registrar-General and the Lieutenant-Governor is satisfied of the correctness of such particulars. A fee of £1 is payable upon registration.

Bills of Exchange.—No. 6 inserts a new section in the principal Ordinance to give effect to a convention regarding bills of exchange and promissory notes. It provides that a bill issued in the Territory which is presented for acceptance accepted or payable outside the Territory is not invalid by reason only that it is not or not properly stamped, and it may be received in evidence on payment of the proper duty and penalty (if any).

Seamen.—No. 7 was passed to give effect to a Draft Convention adopted by the International Labour Conference at Genoa on July 9, 1920, relating to unemployment indemnity for seamen in the case of loss or foundering of their ship.

Maintenance Orders (Facilities for Enforcement).—No. 8 amends the principal Ordinance by altering the full title to show that the Ordinance contemplates application to mandated territories and protectorates ; it also brings affiliation orders within its purview. New sections are inserted making provision for the variation and rescission of maintenance orders enforceable under the Ordinance, for the taking of further evidence for the enforcement of orders in respect of arrears and for the retransmission of maintenance orders against persons not resident in the Territory of Papua. Other minor amendments are made.

Customs Export Tariff.—No. 10 amends the export schedule of the principal Ordinance by including among dutiable goods, gold which has been or shall be won from the earth within the Territory, the rate of duty to be such per cent. *ad valorem* not exceeding 5 per cent. as the Lieutenant-Governor may from time to time proclaim. Provision is made for the adjustment of duty short levied or overpaid upon the receipt of mint returns and sales receipt vouchers. No. 10 is to commence on a date to be fixed by proclamation. No proclamation has been made.

Quarantine.—No. 13 adds to s. 83 of the principal Ordinance the power to make regulations respecting the medical supervision and control of persons arriving in the Territory from places infected with acute *anterior* poliomyelitis.

Navigation.—No. 14 amends the Navigation Ordinance by adding provisions with regard to safety equipment on small vessels.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., *Parliamentary Law Draftsman.*]

The second session of the twenty-fifth Parliament of New Zealand commenced on September 9, 1937, and Parliament was prorogued on March 16, 1938.

Parliament did not sit continuously during the whole period between the dates mentioned, but adjourned on December 10, to meet again on March 1, 1938.

In the " speech " made on the occasion of the opening of Parliament, by His Excellency the Governor-General, reference was made, *inter alia*, to the intention of the Government to introduce legislation providing for the establishment of a National Superannuation Scheme and a National Health Service, and for the reorganization of the system of primary and post-primary education (exclusive of university education). The difficulties in the way of establishing a National Superannuation Scheme and a National Health Scheme have proved rather more serious than was contemplated, and the present position is that these matters have been referred to a Select Committee of the House of Representatives, with power to sit and hear evidence during the recess, and to report from time to time to the Government with a view to legislation being submitted to Parliament in its next session. A comprehensive Education Bill was introduced on the last day of the session, and it, too, has been referred to a Select Committee for consideration during the recess. The general purpose of this Bill is to reconstitute the existing Education Boards (which now control primary education only), and to confer on the new Boards control over both primary and post-primary schools (post-primary schools under the existing system being under the control of specially constituted " governing bodies ").

The matters mentioned above having constituted the principal features of the Government's legislative programme for the session, the fact that they have not been finally dealt with has resulted in a relatively unimportant statute-book for the year.

The legislation passed consists of 39 Public Acts, 19 Local Acts and 5 Private Acts.

The following review deals only with the more important of the Public Acts passed, and only with their salient features.

Fair Rents.—Act No. 2 extends the duration of the Fair Rents Act, 1936, until September 30, 1938. It also extends the application of that Act to houses divided into two separate flats or apartments. The 1936 Act is further amended by s. 63 of the Finance Act, 1937 (No. 17), which prevents the owner (subject to certain exceptions) from recovering possession of a dwelling unless suitable alternative accommodation is available for the tenant.

Trade Agreement (New Zealand and Germany) Ratification.—Act No. 4 ratifies an agreement (the terms of which are set out in the schedule) entered into on September 30, 1937, for the promotion of trade between Germany and New Zealand.

In the course of proceedings in the House of Representatives for the ratification of the agreement the Hon. Mr. Nash (Minister of Customs, and also of Marketing) is reported (in *Hansard*) to have said : " If this agreement is ratified, we have an arrangement under which all credits built up by the sale of German goods in New Zealand are utilized in the full and are earmarked for the purchase of goods from New Zealand."

It is expected that, as a result of the agreement, the sale of New Zealand butter and fruit to Germany will be stimulated.

Air Force.—Act No. 6 provides for the establishment of the Royal New Zealand Air Force, under the administration of an Air Board. Subject to any regulations that may be made under the Act, the Air Force Act (Imperial), the King's Regulations and the Air Council Instructions are made applicable to the New Zealand Force.

Army Board.—Act No. 9 provides for the establishment of an Army Board, having, with respect to the land forces of the Dominion, corresponding functions to those of the Navy Board and the Air Board. Prior to the establishment of the Army Board, the military forces were under the control of the Commandant, but the powers of the Commandant were subject to the overriding authority of the Minister of Defence.

Industrial Conciliation and Arbitration.—Act No. 10 provides for the appointment of a second Court of Arbitration (with jurisdiction in respect of industrial disputes, workers' compensation cases, etc.).

The Court (as does the original Court which was first established under the Act of 1894—sponsored by the Hon. Pember Reeves) consists of a judge and two assessors, the judge enjoying the same privileges as to security of tenure of office, salary, etc., as do judges of the Supreme Court.

Broadcasting.—Act No. 11 validates the establishment and provides for the continuance of a National Commercial Broadcasting Service (in connexion with the National Broadcasting Service established under the Act of 1936, but under separate control).

Physical Welfare and Recreation.—The descriptive long title of Act No. 14 is " An Act to provide for the development of facilities for, and the encouragement of, physical training, exercise, sport and recreation, and to facilitate the establishment of centres for social activities related thereto." The Act is generally on the lines of the Physical Training and Recreation Act, 1937 (Imperial).

Electoral.—By the Electoral Amendment Act, 1934, provision was made for the holding of general elections of members of Parliament at intervals not exceeding four years, and the life of the then Parliament was thereby extended by a year. Act No. 18 repeals this provision and reverts to the former position (*i.e.* general elections at intervals not exceeding three years).

The view of the present Government, in reverting to the former position, is expressed by the Hon. Minister who was in charge of the Bill, in the following words: " There is much room for difference of opinion as to what should be the life of Parliament. . . . Whatever may be thought as to the question of the proper life of Parliament, as far as this Government is concerned it believes that Parliament is a trustee for the people and should not enlarge the life of Parliament except in so far as the people have definitely assented to that enlargement."

It also makes provision to secure the secrecy of the ballot in the case of the election of Maori members by Maori voters.

State Advances Corporation.—Act No. 20, *inter alia*, amends the Housing Act, 1919,[1] by removing the " income " bar with respect to persons qualified to acquire " workers' dwellings." It also empowers the Board of Management of the State Advances Corporation (by whom the Housing Act is now administered) to erect shops, public halls, libraries, etc. (on areas set apart for workers' settlements), for the convenience of occupiers of workers' dwellings and for the provision of social amenities.

Primary Products Marketing.—Act No. 21 separates into two divisions the Primary Products Marketing Department, which was established by the Primary Products Marketing Act, 1936. The Dairy-produce Export Division is concerned only with the export of butter and cheese, and its marketing overseas; the Internal Marketing Division is concerned princi-

[1] *Journ. Comp. Leg.*, Third Series, vol. iii, pt. ii, p. 95.

pally with the buying and selling of foodstuffs intended for consumption in New Zealand, with power to export any surplus over local requirements. The operations of this division create a " standard " of prices and conditions of local trade, and authority is given by which compliance with this standard by other traders may be enforced. In order to avoid anomalies, authority is given for the payment out of the Dairy Industry Account or the Internal Marketing Account (as the case may require) of moneys for " equalization " purposes (so that, under a scheme of control, it becomes a matter of indifference to the producer or the manufacturer whether his produce is exported or is retained for local consumption, or whether it is sold for consumption in the locality where it is produced or elsewhere).

The Sovereign's Birthday Observance.—Act No. 23 authorizes (in accordance with the pleasure of His Majesty) the observance in New Zealand of His Majesty's birthday on the first Monday in June in each year (instead of on the 14th day of December). The Act affects the observance of public holidays by banks, and the special provisions as to payments for holidays in certain Acts, and in awards and agreements affecting industrial conditions.

Petroleum.—Act No. 27 fixes the conditions subject to which prospecting or mining for petroleum may be carried on in New Zealand. The most important provision (from a general point of view) is contained in s. 3 (which vests in the Crown all petroleum, within the territorial limits of New Zealand, existing in its natural state on or below the surface of the land). By s. 3 of the Finance Act (No. 2), 1937 (No. 36), special concessions in respect of liability to income-tax are granted to New Zealand companies engaged exclusively in carrying on the business of mining for petroleum in New Zealand. The general effect of these concessions is that such a company incurs no liability for income-tax unless and until the aggregate of its distributed profits exceeds the amount of its irrecoverable expenditure.

Dogs Registration.—Act No. 29 makes provision for the distribution to dog owners, on the annual registration of their dogs, of approved remedies for hydatids, and of printed instructions for their proper use. Owing to administrative difficulties, the commencement of the Act is postponed until January 1, 1939.

Pensions.—Act No. 32 extends the scope of the old-age pensions scheme, by reducing (from twenty years to ten years) the qualifying period of continuous residence in New Zealand required of applicants for old-age pensions. The Act is in the nature of a " stop-gap " pending the establishment of the proposed National Superannuation Scheme.[1] The Act applies only to present residents ; those who have already been resident in New Zealand for ten years and satisfy the other requirements of the Pensions Act qualify at once for an old-age pension ; persons with less than ten years' residence qualify for a pension on completion of that period. If the law were to remain in its present form, it would produce certain obvious anomalies (as between present and future residents); but it is to be assumed that the present legislation will be superseded long before those anomalies arise.

Iron and Steel Industry.—Act No. 33 makes provision for the establishment, as a State enterprise, of iron and steel works, and for the carrying on of such works and of ancillary industries. The proposed works are to

[1] See introductory remarks.

be carried on by a Commission of not more than three suitable persons acting under the general direction of the Minister of Industries and Commerce.

Existing licences to mine for iron-ore in New Zealand are revoked, and provision is made for the payment of compensation to the former holders. No further licences to mine for iron-ore can be granted, so that the State will have the benefit of a monopoly in so far as its undertaking consists of mining operations. Provision is made for borrowing up to £5,000,000 (to be charged on the public revenues) for the purpose of establishing the industry.

Finance.—Act No. 36 contains numerous provisions of local importance. The only provisions of general interest are in ss. 6 and 7, which extend the authority of the Commissioner of Taxes to grant relief from taxation in cases of hardship. Where the amount involved (by way of refund or remission) exceeds £25, the Commissioner can act only with the authority of the Minister of Finance.

Statutes Amendment.—Act No. 38 makes one amendment which should be of interest wherever the *actio personalis* rule has been abolished. By s. 3 of the Law Reform Act, 1936 (following 24 & 25 Geo. V. c. 41, s. 1 (U.K.)), it was enacted that causes of action subsisting against or vested in a deceased person at the time of his death shall, as the case may be, survive against or for the benefit of his estate. In the case of *Rose* v. *Ford*, the House of Lords decided that, under the corresponding provisions of the Act passed in England, an administrator can recover damages for the loss by a deceased person of "his expectation of life." The same interpretation was placed upon the New Zealand law. S. 17 of the Statutes Amendment Act, 1937, now provides expressly that the damages recoverable for the benefit of the estate of a deceased person "shall not include any damages for his pain or suffering, or for any bodily or mental harm suffered by him, or for the curtailment of his expectation of life."

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by the Acting Attorney-General.*]

Forty-three Ordinances were passed by the Legislative Council during 1937, of which the following are the principal:

Arms.—Ordinance No. 8, which replaces the Arms and Ammunition Ordinance, 1924, follows modern legislation on the subject. It provides for the issue of licences and permits to use arms, licences for the purchase and transfer of arms, licences to import or export arms and licences to deal in arms. Severer penalties are provided for the illegal possession of arms.

Sugar Control.—Ordinance No. 12 was passed as a result of the International Agreement regarding the regulation of the production and marketing of sugar dated May 6, 1937. The Governor is empowered to fix the number of tons of sugar that may be exported during the quota year in accordance with the export quota for the Colony decided upon by the Imperial Government under the above agreement. Producers are

restricted as to the amount of sugar they may hold in stock and returns are to be made as to production and stocks held.

Explosives.—Ordinance No. 13 replaces the Gunpowder Ordinance, 1875, and the Explosives Ordinance, 1923, and has been adapted from recent legislation on the subject. It is in effect merely an enabling Ordinance allowing detailed regulation to be made dealing with the manufacture, use, sale, storage, transport, importation and exportation of explosives which are defined in accordance with the modern view.

Coinage Offences.—Ordinance No. 20 gives effect to the International Convention for the Suppression of Counterfeiting Currency of 1929. The main purpose of the Convention was to apply to foreign coin certain enactments relating only to British coin and to assimilate the penalties for importing and exporting counterfeit coin. The Ordinance re-enacts in the main the provisions of the English Act, the Coinage Offences Act, 1936.

Savings Bank.—Ordinance No. 28 is based on a model Ordinance prepared by a Committee appointed by the Secretary of State to examine the savings bank systems in the Crown Colonies. The repayment of all moneys deposited in the savings bank together with interest is guaranteed by the Government. Any dispute between the Postmaster-General who controls the savings bank and a depositor may be referred to arbitration. The Postmaster-General is not liable for any wrong payment, but a savings bank officer is not thereby exempted from liability for loss caused by his fraud, and where any loss is caused to a depositor without any fault on his part, payment may be made to him of the amount of his loss.

Mining.—Ordinance No. 29 is mainly a rearrangement in a more convenient form of the provisions of the Mining Ordinance, 1934, and its amendments.

Pharmacy and Poisons.—Ordinance No. 30 follows in the main the provisions of the Pharmacy and Poisons Act, 1933, of the United Kingdom and an Australian Act. It provides for the registration by a Board of all pharmacists, who must possess the prescribed qualifications. Companies may carry on the business of pharmacists as part of their business if the department is under the personal control of a registered pharmacist. Various restrictions and duties in the conduct of a pharmacy are imposed by the Ordinance, including the right to give medical advice and surgical treatment and the matter of prescriptions. Automatic machines for selling medicines are prohibited. Medicines or appliances for the treatment of venereal diseases or sexual infirmities may be sold only on the prescription of a registered medical practitioner, and any advertisement of the same is prohibited. Licensed storekeepers may sell certain of the more common medicines. Poisons are divided into two classes. Registered pharmacists may deal with either class, while holders of retail licences may obtain a licence to deal only with the less dangerous class.

Dangerous Drugs.—Ordinance No. 31 deals with the importation and use of dangerous drugs such as opium and cocaine. Its object is to give effect to the Colony's obligations under the Geneva Convention of 1931 and provide stricter control over such drugs.

Land.—The Subdivision of Land Ordinance, No. 35, provides that no land shall be subdivided for the erection of dwellings or business premises into one or more lots containing any lesser area than three acres without the prior approval of the Subdivision of Land Board. Applications by persons wishing to subdivide are to be made to the local authority and

then forwarded to the Board with the local authority's recommendations. The Board may, in approving an application, impose conditions with regard to any area considered unsuitable for building purposes or with regard to the establishment of offensive trades. Minimum widths of roads and minimum areas and frontages of lots are prescribed.

2. GILBERT AND ELLICE ISLANDS.

Ordinances passed—9.

Currency.—By Ordinance No. 1 it is provided that Australian notes and coins and coins of the United Kingdom shall be the legal tender of the Colony. Any person forging or altering a currency note or uttering it knowing it to be forged or altered is liable on conviction to penal servitude for ten years. A penalty of five years' penal servitude may be inflicted for (*a*) receiving without lawful authority or excuse, or possessing any forged or altered note purporting to be a currency note and knowing it to be forged, or any unfinished or incomplete note purporting to be a currency note ; (*b*) possession of materials for forgery of notes or forgery of note paper ; (*c*) engraving on a plate any note purporting to be a currency note, or any name, word, sign, ornament, etc., intended to represent a signature on a note, uses any such plate or knowingly has it in his possession.

Designs.—Ordinance No. 2 provides for the protection in the Colony of designs registered in the United Kingdom.

Public Holidays.—By Ordinance No. 5 January 1, Good Friday, Easter Monday, the anniversary of the birthday of the Heir to the Throne, May 24, the anniversary of the Sovereign's birthday, the first Monday in August, November 10, Christmas Day and December 26 are to be kept as public holidays.

3. BRITISH SOLOMON ISLANDS.

King's Regulations—7.

Closed Districts.—Government control of overseas contact with the two islands of Rennell and Bellona being urgently necessary in the interests of the health and lives of the natives, No. 1 gives the administration the necessary powers of control. Under the Regulation the High Commissioner may declare any area to be a closed district, and entrance into a closed district is prohibited, except in certain specified cases, without a permit issued by the Resident Commissioner.

Currency.—Regulation No. 2 relates to currency and is similar in its provisions as to legal tender and forgery as Ordinance No. 1 of 1937 of Gilbert and Ellice Islands.

Dogs.—By Regulation No. 3 failure to register the ownership of a dog by the person keeping the dog is penalized by a fine of £5 in addition to the registration fee.

Public Holidays.—Regulation No. 4 provides that January 1, Good Friday, the day after Good Friday, Easter Monday, the anniversary of the birthday of the Heir to the Throne, the anniversary of the Sovereign's birthday, the first Monday in August, October 6, Christmas Day and December 26 be kept as public holidays.

4. KINGDOM OF TONGA.

[*Contributed by* A. L. Armstrong, Esq., *H.B.M.'s Agent and Consul.*]

1936.

Acts passed—15.

League of Nations.—The Treaty of Peace (Convention of League of Nations) Acts, Nos. 3 and 4, apply certain economic sanctions against Italy.

Customs Duties.—Act No. 5 effects the following changes in Schedule 1 to the Customs Duties Act, 1933: (*a*) enlarges from three to six months the period allowed for the re-exportation of cinematograph films; (*b*) redefines the type of containers in which goods are imported which may be admitted free of duty.

Criminal Procedure.—Act No. 6 repeals s. 2 of the Criminal Procedure Act, 1927, and provides: (*a*) that the Chief Justice shall also be the Chief Police Magistrate; (*b*) that when the Chief Justice is unable to act as Chief Police Magistrate, the Queen, with the consent of Cabinet, may appoint some fit and proper person so to act; (*c*) that the Chief Police Magistrate may, with the consent of Cabinet, preside over any magistrate's court; (*d*) that appeal shall lie to the Privy Council from decisions of the Chief Justice sitting as Chief Police Magistrate; (*e*) procedure on appeal to the Privy Council, stay of proceedings pending the decision of Privy Council and proceedings for executing that decision; (*f*) limitation of the power of Privy Council to advising Her Majesty whether the sentence or fine imposed by the Chief Justice sitting as Chief Police Magistrate shall be affirmed, remitted or reduced.

Savings Bank.—Act No. 7 repeals and replaces the Savings Bank Act, 1926. It is based on the model Ordinance supplied by the Secretary of State and brings Tongan savings bank procedure in line with that of other dependencies.

Poll Tax.—Act No. 8 consolidates existing Acts and contains no new law except that the system of quarterly payment of the tax is incorporated in the Act.

Dock Regulation.—Act No. 10 gives effect to the provisions of the Convention adopted by the International Labour Conference concerning the protection against accidents of workers employed in loading or unloading ships.

Pensions.—Act No. 11 amends s. 5 of the Pensions Act, 1915, by the deletion of the requirement of a certificate of diligence and fidelity as an essential precedent to the grant of a pension. This permits of the adoption of the policy of misconduct deductions in the calculation of pensions.

Criminal Offences.—Act No. 12 provides for the seizure of any counterfeit currency, and dies, instruments or material used in making counterfeit currency. It brings the local law into conformity with the International Convention for the suppression of counterfeit currency.

Land.—Act No. 13 makes it clear that Part III of the Land Act, 1927, which deals with hereditary estates, applies only to Tongan nationals.

It also develops the present system of land tenure by Tongan nationals, modifies the provision for the planting of coconut trees and makes amendments in procedure.

Public Health.—Act No. 14 provides: (*a*) more stringent regulations

regarding contagious diseases; (*b*) authority for medical officers and sanitary inspectors to inspect premises where food is prepared or offered for sale; (*c*) authority for the Board of Health, subject to the consent of the Privy Council, to make regulations for the management and control of bakehouses, dairies, restaurants and any other premises in which food for human consumption is prepared.

Educational Films (Exemption from Duty).—Act No. 15 applies to Tonga the provisions of the International Convention for facilitating the international circulation of films of an educational character.

1937.

Acts passed—4.

Educational Films (Exemption from Duty).—Act No. 3 amends the Educational Films Act, 1936, by the deletion of the requirement that the grant of duty-free entry to Tonga of films produced in British Empire countries shall be conditional upon the grant of similar free entry to such countries of films produced in Tonga.

Land.—Act No. 4 effects an enlargement in the hereditary estate of the Heir Apparent consequent upon his coming of age.

5. NEW HEBRIDES.

[*Contributed by* His Honour G. A. Joy, *Resident Commissioner.*]

Trading Licences.—Joint Regulation No. 1 amends and consolidates the law relating to trading licences.

Courts.—Joint Regulation No. 2 establishes a Court of First Instance in the Northern District.

Fisheries.—Joint Regulation No. 3 permits the use of explosives for killing fish in certain areas.

Alcoholic Liquor.—Joint Regulation No. 4 suspends for one year the obligation to procure a permit to buy alcoholic liquor.

Traffic Regulation.—Joint Regulation No. 5 provides that drivers of vehicles shall at cross-roads give way to vehicles coming from the right intersection.

Tetanus.—Joint Regulation No. 6 provides regulations for the control of tetanus.

Postal Rates.—Joint Regulation No. 7 increases the Inter-Empire letter rate from 50 to 60 centimes for 20 grammes.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* A. A. Schoch, Esq., LL.D., K.C., *Senior Government Law Adviser.*]

In 1937 the Parliament of the Union of South Africa passed fifty-three public and four private Acts. Of the public Acts, eleven are financial measures of merely local interest, and twenty-four amend existing Acts. Of the public Acts, the following are of more general interest:

Aliens.—Act No. 1 prohibits the entry of an alien into the Union for permanent residence therein, unless his entry has been permitted by a

body called the Immigrants Selection Board, the members whereof are appointed by the Governor-General. The Act provides for the issue of such a permit only to an alien who is a desirable immigrant, but the Board has an unfettered discretion in granting or withholding a permit and is in no way subject to Government control. In order to safeguard the members of the Board against improper outside pressure, the Act makes it an offence to approach any individual member of the Board with a view to inducing him to vote for or recommend the issue of a permit to any alien. Apart from permits to enter the Union for permanent residence therein, the Act provides for the issue by an immigration officer of permits to enable aliens to enter the Union and to sojourn therein temporarily, during a limited period, for purposes and on conditions prescribed in the permits. Any alien who enters the Union without one of the permits mentioned above is a prohibited immigrant and can be detained and removed under the Immigrants Regulation Act, 1913; but diplomatic agents and consuls of foreign States and their families, and persons employed in their chancelries or consulates, are exempted, and the Act empowers the Minister of the Interior to exempt also any distinguished visitor who desires to enter the Union without the intention to remain therein permanently.

The Act also deals with the changing of surnames. In the past many persons of obscure origin, with outlandish names and questionable antecedents, adopted the surnames of illustrious families or of well-known and highly respected citizens, to the great annoyance of those who inherited those names from their ancestors and who were justly proud of their names. The Act under consideration now prohibits the assumption of another surname, except with the authority of the Governor-General, published in the *Government Gazette*. Before this authority can be granted the person desiring to change his name must have published in the *Government Gazette*, and in two newspapers designated for the purpose by the local magistrate, a notice of his intention to assume another surname, and the Governor-General must have satisfied himself, *inter alia*, from reports furnished by the Commissioner of Police and by the magistrate, that the person concerned is of good character and that there is good and sufficient reason for the assumption of another surname. There are, however, several exemptions from this prohibition, *e.g.* when a woman assumes the surname of her husband or reputed husband, or after the dissolution of her marriage resumes a surname which she bore at any prior time, or when an adopted child assumes the name of his adoptive parent, or when a title passes to or is conferred upon any person.

King Edward the Eighth's Abdication.—The preamble to the Statute of Westminster (22 Geo. V, ch. 4) declares, *inter alia*, that "it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom." Pursuant to this declaration Act No. 2 was passed by the Union Parliament. Ss. 2 and 3 are almost identical with sub-ss. (2) and (3) of s. 1 of His Majesty's Declaration of Abdication Act, 1936 (1 Edw. VIII, ch. 3), but s. 1 of the Act under consideration differs materially from the corresponding provision in the English Act. Sub-s. (1) of s. 1 of the English Act (which became law on December 11, 1936) provides that "immediately upon the

Royal Assent being signified to this Act, the Instrument of Abdication executed by His present Majesty on the 10th December, 1936, shall have effect," etc., whereas s. 1 of the Union Act (which commenced only on February 10, 1937) provides that " it is hereby declared that the Instrument of Abdication executed by His Majesty King Edward the Eighth on the 10th December, 1936, . . . has, and has had effect from the date thereof. . . ." Therefore we have the curious position that in terms of this Act, King Edward VIII ceased to be King in the Union a day earlier than he ceased to be King in England.

Coronation Oath.—Act No. 7 provides for the taking of an oath by the King, " either on assuming the government of the Union or at his coronation." The oath to be taken is similar to the oath prescribed by the Act of Settlement, and may be taken as a collective oath, in a form to be agreed upon with all or any of the other members of the British Commonwealth of Nations.

Natural Monuments.—Act No. 9, *inter alia*, extends the powers of the Commission for the Preservation of Natural and Historical Monuments, Relics and Antiques, established in terms of the Natural and Historical Monuments Act, 1923, and enables the Commission to take control of any natural or historical monument, situate within the area of jurisdiction of a local authority, if the monument is being mismanaged or neglected by that local authority, but subject to an appeal to the Minister of the Interior. The Act further empowers the said Minister to prohibit the removal or the export from the Union of any object or group or collection of objects which is capable of being proclaimed a " relic " or an " antique " in terms of the Natural Monuments, Relics and Antiques Act, 1934.

Slums.—Act No. 24 was passed to remove several defects in the Slums Act, 1934, which experience in the administration of the latter Act had revealed. The amending Act makes provision to facilitate the recovery, by a local authority, from the owner of slum premises, of expenses incurred by the local authority in abating a nuisance on those premises, and it tightens up the provisions under which a local authority may compel the occupiers of slum premises to vacate them while they are being altered.

Unemployment Benefit.—The object of Act No. 25 is to make provision whereby employees in organized and stable industries may be financially assisted during periods of enforced unemployment, while they are capable of and available for work. Only eight industries are specified in the schedule to the Act as industries to which the Act applies, but the Governor-General has power by Proclamation to add other industries to the list. The Act does not apply to employees whose earnings are at a rate exceeding £450 a year. The scheme of the Act is the establishment of separate unemployment benefit funds for particular industries in particular areas. The Minister to whom the administration of the Act is assigned may establish such a fund upon the application of a registered employers' organization or trade union which is representative of the employers or employees, respectively, in the industry in the area. If no such organization or union exists, or if no such application is made, the Minister may, upon his own motion, establish such a fund. The employers and employees are required to contribute to the fund at rates fixed by or under the Act, and contributions are also made from the revenues of the State. Each fund is, subject to a general supervision by

the State (exercised through a body appointed by the Minister and styled the Central Authority for Unemployment Benefit Funds), controlled by a management committee, consisting of an equal number of representatives of employers and employees, with, in certain circumstances, an independent chairman. An employee who has been contributing to an unemployment benefit fund, and whose employment terminates, and who is unable to find other employment, is entitled to receive assistance from the fund at rates and for periods fixed by the Act. Provision is made whereby, if the assets of a fund fall below a level considered safe, having regard to the potential liabilities of the fund, the rates of contribution may be increased or the rates of benefit may be reduced, and, conversely, if the assets have been built up to a satisfactory level, whereby the rates of contribution may be reduced or the rates of benefit may be increased.

Farm Products Marketing.—Act No. 26 provides for the appointment, by the Governor-General, of a National Marketing Council consisting of five or six members. The main function of the Council is to deal with so-called schemes for the establishment whereof the Act contains elaborate provisions. The Act also provides for the establishment of a Producers' Advisory Committee and of a Consumers' Advisory Committee, whose members (numbering eight in each case) are representative respectively of producers of certain farm products and of consumers of such products. The functions of these committees are to advise the Minister of Agriculture and the Marketing Council on matters affecting the interests respectively of producers and of consumers and on matters relating to schemes or proposed schemes under the Act.

The most important provisions of the Act deal with the establishment of schemes to control, regulate and increase the sale of certain farm products. Each scheme is in effect a law containing an elaborate set of rules dealing with the sale of a particular farm product in a defined area. Each scheme must contain certain provisions prescribed by the Act, *e.g.* it must provide for a board to administer the scheme (the majority of whose members must be representatives of the producers of the product in question) and for the establishment of a fund into which must be paid levies imposed upon the producers concerned in respect of sales of their products, or upon dealers in such products. Apart from these compulsory provisions, a scheme may contain a large variety of optional provisions giving its administrative board very drastic powers to regulate the sale or export of the product in question, or to purchase or process and dispose of it. Before the adoption of a scheme which confers certain far-reaching powers upon its administrative board, the Minister of Agriculture must publish particulars thereof and convene meetings of producers of the product in question for the purpose of voting for or against the establishment of the scheme. Only European adults who have, during the preceding three years, produced a prescribed quantity of the product may vote at such a meeting. A scheme on which a vote has been taken cannot be brought into operation unless the majority of voters, who during the preceding three years produced more than half the total quantity of the product in the area in question, have voted in favour thereof, and if the scheme confers certain defined powers upon its board, the majority must consist of at least three-fifths of such voters. Other less drastic schemes may be brought into operation without prior publication and without a vote, if they have been submitted to the Minister of Agriculture by certain statutory boards established in the past for the purpose of controlling

dealings in dairy produce, slaughter animals or meat, tobacco, wheat or maize. A scheme is brought into operation by the Governor-General by Proclamation. The Act contains various provisions for the suspension, amendment or revocation of a scheme.

The Act further provides for the creation of a national mark which may be applied to a particular farm product, if certain requirements have been complied with.

Firearms and Ammunition.—Act No. 28 repeals the numerous provincial laws passed before the establishment of the Union in 1910, which dealt with the sale, purchase or possession of firearms and ammunition (and which differed very considerably the one from the other), and regulates in a comprehensive manner the importation, sale and possession of firearms and of ammunition. The Act prohibits the importation or possession of cannon, machine-guns or machine-rifles and of ammunition therefor, with the exception of such a weapon which is merely a trophy, curiosity or ornament, or a cannon which is used solely as a signal or salute gun. The Act further regulates the importation or exportation of firearms or of ammunition (other than shotgun ammunition or ·22-bore rim-fire rifle ammunition) under magisterial permit. Before the Act came into force, the laws of three Provinces prescribed the registration of all firearms, whereas in one Province (the Cape) no such registration was prescribed. The Act under consideration provides for the registration of all firearms in any district in the office of the magistrate for that district. The registration was effected free of charge, during the period of six months immediately after the commencement of the Act, in respect of all firearms in lawful possession at that commencement. Since the commencement of the Act no person may acquire or possess a firearm unless he has previously obtained a licence therefor from a magistrate, on payment of a prescribed fee (10*s*. for a rifle and 5*s*. for a shotgun, saloon rifle or pistol). The magistrate has a discretion to grant or refuse a licence but subject to an appeal to the Minister of Justice. Formerly the provincial laws contained no provision enabling some authority to deprive any person of a firearm which he acquired lawfully, if he was proved to be unfit to be in possession of such a dangerous weapon as a firearm. The Act under consideration, on the other hand, enables a magistrate who has received certain information upon oath, to summon a person to show cause why the magistrate shall not declare him to be unfit to possess a firearm, and the magistrate may also cause to be seized any firearm which the person in question may have in his possession. If, after holding an inquiry, the magistrate is satisfied that it is dangerous to leave the person concerned in possession of a firearm, he may declare him to be unfit to possess a firearm during a stated period of not less than three years. When during the criminal trial of any person by a magistrate or by a superior court certain facts have been proved which go to show that it is dangerous to permit the accused to be in possession of a firearm, the magistrate or the presiding judge may likewise declare the accused to be unfit to possess a firearm. Any such action by a magistrate is subject to an appeal to the Minister of Justice.

The Act also provides for the licensing of persons to deal in firearms at specified premises, and prohibits the manufacture of ammunition except in an explosives factory and under the written authority of the Minister of Justice. The Act further empowers the Governor-General to take certain precautionary measures (*e.g.* in time of war or during civil

commotion) in regard to the supply, importation or transportation or storage of firearms and ammunition.

An important innovation introduced by the Act is a prohibition against the handling of firearms by children under the age of fourteen years, except under supervision of an adult. The parent or guardian of a child who is in possession of a firearm and the owner of the firearm are presumed to have permitted the child to be in possession of the arm and are liable to punishment unless they prove that they could not prevent the child from obtaining such possession.

Unbeneficial Occupation of Farms.—Some farms in the Union have been surveyed and divided into such small portions that these portions or some of them are quite unsuitable for agricultural or pastoral purposes. Furthermore, some farms are subject to a perpetual *fidei commissum* in favour of all the descendants of the former owner who imposed the *fidei commissum*, with the result that such a farm may eventually belong to more than a thousand fidei commissaries who cannot dispose of the farm or otherwise deal with it profitably. Now Act No. 29 empowers the Minister of Lands to expropriate such land, and all rights to which it is subject, except certain mineral or trading rights, servitudes (other than grazing rights) or rights expropriated under any law, on payment of compensation which is to be determined by the Water Court established under the Irrigation and Conservation of Waters Act, 1912, unless the parties agree as to the price to be paid for the land or any interest therein. If the land was subject to a *fidei commissum* or usufruct, the share of each beneficiary in the compensation must be invested for his benefit, provided that if the share of a beneficiary amounts to less than £100, a judge of the Supreme Court may direct that it be paid in unrestricted ownership to the beneficiary either in one sum or in instalments. Any land so expropriated must be disposed of in accordance with the various laws dealing with the disposal of Crown land for settlement.

Child Welfare.—Act No. 31 is a consolidating measure. It repeals nearly all prior child legislation and re-enacts it in considerably modified and amplified form. C. 1 provides that every magistrate shall be a Commissioner of Child Welfare within his district, but provision is also made for the appointment of a magistrate as Commissioner of Child Welfare for two or more districts. This chapter further provides for the establishment of children's courts, to be presided over by a Commissioner of Child Welfare, assisted by a children's court assistant who must place any relevant evidence before the Commissioner. No person may publish in a newspaper any information likely to reveal the identity of a child who is or was concerned in any proceedings in a children's court, unless the Minister in charge of the Act or the presiding Commissioner permits such publication in the interests of a particular person. Except with the permission of the presiding Commissioner, no person whose presence is not necessary may attend the proceedings in a children's court. Numerous provisions of the Magistrates' Courts Act, 1917, and of the rules in force under that Act are made applicable to children's courts.

C. 2 deals with the protection of infants. It prescribes the giving of notice to a Commissioner of Child Welfare whenever a person receives an infant (other than a close relative) to maintain it apart from its parents, or whenever such an infant is removed from one place to another, and provides for proper supervision over, and protection of, such infants. It also prescribes the keeping, in every lying-in home, of a record of every

infant which was born or which has died therein or which was removed therefrom, and if an infant was removed by any person other than a parent or other close relative, notice thereof must be given to a Commissioner of Child Welfare.

C. 3 deals with the neglect, ill-treatment, corruption or exploitation of children, regulates street trading by children and provides for proper control of public entertainments at which children perform, and for the safeguarding of child audiences at public entertainments.

C. 4 deals with the removal of a child who is in need of care to a place of safety, and empowers a children's court to place such a child in an institution or in the custody of a suitable person, or to apprentice him.

C. 5 provides for the establishment of places of safety or of detention for the reception of children, and of various institutions for the training of children, such as industrial schools or reformatories (in which juveniles from other British territories in Africa may also be received). The Act contemplates that a large percentage of children in need of care will be placed in charge of voluntary child welfare associations and provides for the certification, by the Minister in charge of the Act, of such associations or of institutions established by such associations. In this chapter provision is also made for the appointment of probation officers as officers of children's courts. They are thereby brought mainly under the Act in question instead of falling entirely within the purview of the Criminal Procedure and Evidence Act, 1917 (as they did previously), and their duties are now primarily connected with delinquent juveniles. It is further provided in this chapter that certain parental powers over children who are inmates of certain institutions pass from the parents to the management of those institutions, and a children's court may deprive a cruel or neglectful father of his paternal power over his children and transfer that power to the mother.

C. 6 empowers a children's court or a magistrate's court to order a parent to contribute towards the maintenance of his child if the child is brought before the children's court for inquiry, or if the child is an inmate of a certain institution, and such an order has the effect of a maintenance order under the Maintenance Orders Act, 1923, or can be enforced by the Minister administering the Act as if it were a civil judgment in his favour.

C. 7 deals with the adoption of children. It supersedes the Adoption of Children Act, 1923, and re-enacts its provisions without altering them substantially, except in regard to a few much-debated questions. Thus the new Act expressly provides that the identity of an adoptive parent shall not be disclosed to the natural parents of the adopted child if the adoptive parent so desires and the natural parents agree thereto. Another important innovation in the new law is a provision that, although the relationship between an adoptive parent and an adopted child is in law in all respects the same as the relationship between a natural parent and his legitimate child, an adoptive parent may lawfully marry his adopted child (provided the child is twenty-one years old or older), whereas the Act of 1923 prohibited such a marriage.

The last chapter (8) contains many amendments of the Criminal Procedure and Evidence Act, 1917, so as to bring the provisions of that Act into line with the Act under consideration. It also contains various miscellaneous provisions : *e.g.* it prohibits the publication in a newspaper of an advertisement offering a child for adoption or offering to adopt a

child, and it empowers the officer presiding at any proceedings under the Act to estimate and fix the age of a young person of whose age there is no proof. This is a necessary provision in view of the fact that more than two-thirds of the Union population are natives, among whom the birth of a child is not registered, so that there is generally no authentic record of the age of a native.

Old Age Pensions.—Act No. 34 further amends the Old Age Pensions Act, 1928, and lowers the pensionable age for women from sixty-five years to sixty years and raises the maximum which may be paid as an old age pension from £30 to £42 per year for Europeans and from £18 to £21 per year for coloured persons.

Industrial Conciliation.—By Act No. 36 the Industrial Conciliation Act, 1934, and the amendments thereof by later Acts, were repealed, and in their place new and more comprehensive provisions were enacted for the regulation of the conditions of employment, by agreement or arbitration, between employers and employees. In order that it may be practicable to negotiate agreements between employers and employees, it is necessary that they be organized. The Act, accordingly, provides for the registration of employers' organizations and of trade unions by an officer styled the Industrial Registrar. It enacts that the constitutions of these bodies must contain provisions concerning a stated list of subjects ; but the list is not exhaustive, and the Registrar may approve of the inclusion of provisions dealing with any other matter which, in his opinion, is suitable to be dealt with in the constitution of an employers' organization or a trade union. Registration of such organizations and unions takes place in respect of particular interests and of particular areas ; and if an employers' organization or trade union has been registered in respect of certain interests in a certain area, the Registrar may not register another employers' organization or trade union, as the case may be, in respect of the same interests in the same area. Members, office-bearers and officials are not liable for the obligations of the organization or union. No proceedings may be brought against any such organization or union or any member, office-bearer or official thereof in respect of any wrongful act committed by the organization or union or by the member, office-bearer or official on behalf of the organization or union in furtherance of a strike or lock-out ; but this protection does not extend to an act committed in furtherance of a strike or lock-out which is specially forbidden by the Act, or to an act the commission of which is a criminal offence. The principal instrument provided by the Act for the settlement of disputes by agreement is the industrial council. Such a council may be formed by agreement between employers or employers' organizations, on the one side, and trade unions on the other. Registration of industrial councils takes place in respect of particular industries and of particular areas. An industrial council has as its members equal numbers of representatives of employers and employees, and it is presided over by a chairman chosen by the council from amongst its members or otherwise. Upon every industrial council is imposed the duty of endeavouring, by the negotiation of agreements or otherwise, to prevent disputes from arising and to settle disputes that may arise between employers and employees, and of bringing about the regulation or settlement of matters of mutual interest to employers and employees. Agreements negotiated by industrial councils may deal with any of the matters mentioned in a long list contained in the Act, and, generally, with any matter affecting

or connected with the remuneration or conditions of employment of all employees or of the members of any class of employees, or any matter whatsoever of mutual interest to employers and employees. If a dispute arises between employers and employees in an industry in an area in respect of which no industrial council is registered, the instrument provided by the Act for its settlement is the conciliation board. It is appointed by the Minister, and it consists of representatives of employers and representatives of employees in equal numbers. The board must endeavour to settle by agreement or otherwise the dispute submitted to it. It reports to the Minister and may be discharged by him. If an industrial council or conciliation board has difficulty in settling a dispute, the Minister may appoint a mediator, who may preside at meetings of the council or board, and must confer with the council or board, and endeavour to bring about a settlement of the dispute. The Act also provides for the settlement of disputes by voluntary arbitration, and where the dispute is one between a local authority and those of its employees who are engaged upon certain essential services, by compulsory arbitration. The Minister is empowered to declare an agreement negotiated by an industrial council or conciliation board binding upon the parties to the agreement or upon all employers and employees in the industry in the area in question. An arbitration award is binding upon the parties to the dispute, and the Minister may also declare it to be binding upon other employers and employees in the industry in the area in question. Provision is made for exemptions. It is a criminal offence for anyone to contravene or fail to comply with an agreement or award binding upon him. If the person convicted is an employer and the offence consists of an underpayment of wages, the court must inquire into the amount of the underpayment and the circumstances in which it occurred, and must order him to pay the amount to a specified officer. The court must also make an order as to the disposal of the said amount. It may, having regard to the circumstances, direct that the whole, or only a portion, or none of the said amount be paid to the employee concerned. So much as is not so directed to be paid to the employee is paid to the State. The Act also lays down to what extent the right of an employee to recover the amount underpaid is affected by the provisions of the Act. Provision is made for the registration of employers, the appointment of inspectors and the rendering of information. If an employer alters or gives notice of his intention to alter the conditions of employment of an employee, the employee may refer the matter to the industrial council having jurisdiction, or, if there is no such council, apply for the appointment of a conciliation board, and the employer must then stay his hand. It is a criminal offence to participate in a lock-out or strike for the purpose of defeating or evading an agreement or award that has become binding under the Act, or if the employees concerned are engaged upon essential local services, or until resort has first been had to the machinery provided by the Act and that machinery has failed. The Act contains strong provisions for preventing victimization of employees who have joined trade unions or have given information for the purposes of the Act. The Act empowers the Minister to take over services which a local authority is required, but fails, to perform because of a lock-out or strike.

Stock Disease.—Act No. 37 amends in various ways the Diseases of Stock Act, 1911. It contains one somewhat unusual provision which has proved very effective in combating the extensive illegal introduction of

cattle from territories adjoining the Union. This provision makes it an offence to be in possession of livestock in regard to which there exists a reasonable suspicion that it has been introduced into the Union in contravention of the last-mentioned Act, unless the person concerned can give a satisfactory explanation of his possession.

Liquor.—The Liquor Act, 1928, provided that no bar licence could be renewed after 1937, as it was intended to eliminate all bars which were not attached to hotels, restaurants or clubs. That Act also, in effect, made it impossible for small wayside hotels to continue after 1937. As it was found impracticable to give full effect to these drastic provisions, Act No. 39 provides for the continuance of ten bars in Johannesburg, four in Cape Town, two in Pretoria and two in Durban, and enables the Minister of Justice to permit the continuance of certain wayside hotels which are necessary to meet the needs of the travelling public.

Housing.—Ordinarily a building society will not grant a loan in excess of a certain percentage of the total value of a house to be built or acquired by an intending borrower. Act No. 41 enables building societies to grant loans in excess of that percentage to borrowers approved of by the Central Housing Board, for it empowers the Minister of Public Health to advance to a building society part of such a loan to be granted by the society, and to bear a defined percentage of any loss which the society may sustain in connexion with such a loan. But the Act limits in various ways the loans which a building society may grant under the scheme in question, *e.g.* no loan may be granted under the Act if the intending borrower has sufficient means to enable him to obtain an ordinary loan, or if the house to be bought or built by means of the borrowed money is to be used for other purposes than as a home for the borrower himself or is or will be of a value higher than a stated maximum (which may vary for different areas).

Weeds.—Before Act No. 42 was passed, the eradication of weeds was dealt with by provincial legislation. But the Act repeals all provincial Ordinances dealing with the eradication of weeds and consolidates prior legislation in a measure which applies throughout the Union. The plants to which the Act shall apply must be declared to be weeds by Governor-General's Proclamation. The occupier of land must, under criminal sanction, eradicate all weeds thereon, and if he fails to do so, certain officers may eradicate the weeds at his expense. The Act empowers the Governor-General to amplify its provisions by various regulations.

Wages.—Act No. 44, like the Industrial Conciliation Act, 1937, is a consolidating and amending measure. It repeals the Wage Act, 1927, and the amendments thereof, and enacts in their place more comprehensive provisions. The Act is supplementary to the Industrial Conciliation Act: it deals with the determination of the conditions of employment of employees who are not sufficiently well organized to take advantage of the provisions of the Industrial Conciliation Act. The Act establishes a Wage Board, consisting of three members, who are appointed by the Governor-General. Provision is made for investigations by the Wage Board into conditions of employment in any trade or section of trade in any area, and for the making by the Board of reports and recommendations to the Minister to whom the administration of the Act has been assigned. The Minister may make a determination in accordance with such a recommendation and indicate to what classes of employees and what areas it is to apply. The Act contains provisions for enforcing a determination

similar to those contained in the Industrial Conciliation Act for enforcing agreements or awards which are binding under that Act.

Native Laws.—Act No. 46 consists mainly of amendments of the Natives (Urban Areas) Act, 1923. The provisions forbidding natives to acquire land situated outside native areas, contained in Acts 27 of 1913 and 18 of 1936, do not apply to land within urban areas. Similar provisions are applied by the Act under consideration to land situated in urban areas. Further, provision is made for regulating the influx of natives into urban areas. Foreign natives, that is, natives who are not lawfully domiciled in the Union, the Mandated Territory of South-West Africa or Basutoland, the Bechuanaland Protectorate or Swaziland, may not enter an urban area without the written permission of the Secretary for Native Affairs, except to work in mines. Provision is made for a biennial census in urban areas, and the rendering of biennial returns by urban local authorities to the Minister of the results of the census, showing whether there is a shortage or a surplus of native labour. Power is given by the Act to remove redundant natives from urban areas. The existing provisions relating to the brewing and sale of kaffir beer in urban areas are repealed and re-enacted with many modifications.

Deeds Registries.—Act No. 47 is a voluminous consolidating measure. It repeals a large number of prior laws (two of them dating back to the days of the Dutch East India Company) which deal with the registration of title deeds and certain other documents. For the greater part it follows on the lines of the repealed Deeds Registries Act, 1918, but it contains many improvements upon the measure which it superseded. It continues the eight existing deeds registries (of which four are in the Cape Province), provides for the appointment of a registrar of deeds and an assistant-registrar of deeds for each registry, and defines their numerous powers and duties. One of the registrars may be appointed chief registrar of deeds, with supervisory powers over the other registries, with a view to attaining uniformity of practice in all registries. If a chief registrar has been appointed, he is chairman of the Regulations Board, which consists of six registrars of deeds, four attorneys appointed respectively by the four provincial law societies and two country attorneys appointed by the Minister of Lands. The Regulations Board may make regulations in regard to many different subjects. Such regulations may, *inter alia*, prescribe the various registers which must be kept in a deeds registry, the office fees to be charged in connexion with any transaction in a deeds registry, the fees which conveyancers and notaries public may charge in connexion with the preparation and registration of deeds, and rules of procedure in connexion with a large number of transactions in or relating to deeds registries. The Act specifies the deeds which must be prepared by a conveyancer, and it provides that, with certain exceptions, the ownership of land can be transferred from one person to another only by means of a deed of transfer prepared by a conveyancer and executed or attested and registered by a registrar of deeds, and that other real rights in land can be transferred only by means of a deed of cession, attested by a notary public and registered by a registrar of deeds. The Act contains numerous provisions (on the lines of prior legislation) dealing with different methods of transferring land or undivided shares in a piece of land owned jointly by two or more persons and with different forms of title deeds. These provisions are too varied and complicated to describe in this summary. But one of them, which introduces an innovation,

deserves special mention. It is a provision for the transfer of land (after an inquiry held by a commission consisting of a registrar of deeds, a Surveyor-General and a Master of the Supreme Court or, in the Transvaal, the registrar of mining titles in lieu of the Master) to a person who has acquired the right to the ownership of that land but who cannot obtain transfer of that land in the usual way, *e.g.* when the land was inherited by successive heirs to whom no formal transfer was passed. A whole chapter of the Act is devoted to the execution, registration and cession of mortgage bonds, the transfer of mortgaged immoveable property and the rights and obligations of the parties to a bond. Another chapter deals with other real rights in immoveable property, *e.g.* servitudes, prospecting contracts and other rights to minerals, and long leases. The penultimate chapter deals with ante-nuptial contracts. Such a contract cannot be registered (with a view to giving it effect as against persons who are not parties to the contract) unless it was attested by a notary public and has been tendered for registration within two months of its execution if it was executed in the Union (or six months if it was executed outside the Union). The last chapter of the Act, *inter alia*, deals with the cancellation of a registration when a registered right has lapsed, prohibits the registration of a deed of transfer of land unless all taxes or other imposts on that land have been paid, provides for the registration of the change of a name of a person or partnership which figures on any document in a deeds registry, places female witnesses to a document in the same position as male witnesses, prescribes the method of attesting powers of attorney intended for use in a deeds registry, and makes the Government liable for any loss sustained in consequence of the *mala fides* or lack of reasonable care or diligence on the part of a registrar of deeds or any other officer employed in a deeds registry (but the Government has a right of recourse against the officer responsible for the loss).

2. CAPE OF GOOD HOPE.

[*Contributed by* Mr. Advocate A. J. Pienaar.]

Of the Ordinances enacted by the Provincial Council in 1937 only a small proportion can claim to be of more than local interest, the greater portion, apart from the usual financial measures, consisting of amendments of an administrative character to existing legislation.

Licences.—In order to understand the purpose and effect of this amending Ordinance (No. 3) a brief history of previous legislation is necessary. In 1930 the Provincial Council passed a consolidating licences Ordinance, deriving its authority to do so from an Act of the Union Parliament—viz. Act 46 of 1925. Among the items included in the Act was the right to impose a tax on goods imported for sale. A limit of £310 was fixed as the maximum of the tax.

The 1930 Ordinance, in its schedule under the heading "Importer's Licence," imposed a tax on a sliding scale up to £310 on all goods imported. In 1935 the Union Parliament, by an amending Act (No. 50 of 1935), removed the limit, and the Provincial Council, by Ordinance No. 19 of 1936, amended its schedule in order to increase its revenue from this source. The importing merchants then took stock of the legal position, and while some paid, others paid under protest or refused. The legal ground of objection was that the Provincial Council had authority to tax only goods

imported for sale and not goods imported for manufacturing purposes or which were in transit. It was also objected that merchants at the time of importation could not declare what goods were imported for sale in the Province.

To meet these objections the present Ordinance was passed, and its validity was challenged in the case of *Arderne, Scott, Thesen Ltd.* v. *Cape Provincial Administration*. The Cape Provincial Division unanimously held that part of the Ordinance was *intra vires* but that that part which related to goods imported for manufacture in the Province or which were in transit to other Provinces was *ultra vires*. By a majority the Court held that the parts were separable and therefore it refused to declare the whole Ordinance invalid. This decision was taken on appeal and a majority of the Appeal Court (1937 A.D. 429) upheld the judgment of the court below. Application was made to the Privy Council for special leave to appeal, but this was refused. The legal position has been made clear, but the practical difficulties remain.

The old item "Importer's Licence" in the 1936 Ordinance was deleted and new provisions substituted. The amount of the tax is fixed at £1 on the value of every £100 of goods with a minimum of £5 and a reduction to 5*s*. per £100 in respect of certain classes of goods. Provision is made for exempting goods grown or manufactured in other Provinces which impose a similar tax. (There are none such.) "Importation for sale" is defined and machinery is created to enable the Receiver of Revenue to inspect records. Provision is also made for refunding certain payments made subsequent to the calendar year 1935. The result of the litigation, however, is that only part of the Ordinance has legal force.

Divisional Council and Roads.—Ordinance No. 8, the annual tinkering at the Divisional Council and Roads Ordinance, 1917 (No. 13 of 1917), besides making provision for numerous minor changes, exempts public utility companies which establish and manage sub-economic housing schemes from the payment of rates if such companies do not distribute profits to its members. It also provides that when a council determines the width of the made-up part of a road it need not fix this in the centre of the road—the object being to enable vehicular traffic to be confined to one or other side of the road. The Crown and the Provincial Administration are also expressly excluded from the provisions of the parent Ordinance.

Game Laws.—Ordinance No. 14, which amends the Game Laws Consolidation Act, 1909, prohibits the sale of game "biltong"—that is, pickled and sun-cured meat of game. The purpose of this amendment was to put a stop to the practice of slaughtering buck in some districts in large numbers for the traffic in dried meat.

Wild Flowers Protection.—Until Ordinance No. 15 was passed the legislation dealing with the protection of indigenous wild flowers was to be found in the schedule to the Licences Consolidation Ordinance, 1930, under the items providing for licences to pick and sell wild flowers. In recent years the motor-car has greatly stimulated the interest of the town dwellers in the flora of the countryside. This has meant an ever-growing market for the professional dealers. Both amateurs and professionals regularly raided the countryside, and the societies for the protection of wild flowers clamoured for more stringent measures. The result is this Ordinance, which forbids entirely the picking and selling of wild flowers other than those expressly exempted by proclamation.

Provision is made for establishing reserves in which no flowers can be exempted except by a special permit granted by the Administrator for botanical and other scientific purposes. The sale of flowers which are exempted is restricted to sites specially set apart by local authorities, who are empowered to regulate such sale and to issue permits to sellers. Hawking and peddling and picking within 50 yards of either side of a public road are also forbidden.

Education.—Besides making certain changes in the salaries and conditions of service of certain teachers, Ordinance No. 6 amends the parent Ordinance (No. 10 of 1921) so as to enable the Administrator to send children who, " owing to physical, mental or behaviour disabilities, are unable to benefit from instruction in ordinary schools or whose attendance at such schools may prove harmful to themselves or others " to special classes or special schools established for such children.

Municipal.—Ordinance No. 22 has a provision for the exempting from rates of utility companies similar to that described under the Divisional Councils and Roads Amendment Ordinance (No. 8 above), and also extends the powers of councils to make regulations.

Refund of Salaries Reductions.—The return of prosperity is reflected in this measure (No. 23) which provides for the refund of two-thirds of the cuts made in the salaries of teachers in 1931 and hospital officials in 1932.

Roads.—The parent Ordinance (No. 21 of 1927) in its schedules defines all the roads of the Province which are main roads and provides for a subsidy from provincial revenue for their maintenance. These schedules were comprehensively overhauled and as a result the old schedules were repealed by No. 32 and new ones substituted which fill about one-third of the volume which contains the year's Ordinances. Consequential changes in the subsidy provisions have also been made.

3. NATAL.

[*Contributed by the* Hon. Mr. Justice Carlisle.]

Ten Ordinances were passed by the Provincial Council during 1937. Of these three were appropriation measures and one provided for pension.

Local Government.—Five Ordinances deal with local government. Ordinance No. 4 authorizes the borough of Port Shepstone to borrow certain moneys for certain special purposes, while Ordinance No. 5 increases the borrowing powers of the city of Durban. Ordinances Nos. 7 and 9 also deal with Durban. By the former amendments are made to Ordinances No. 19 of 1920 and No. 19 of 1924, and extended powers are bestowed in respect of drainage servitudes.

The latter Ordinance, No. 9, amends the Borough Extension and Loan Ordinance of 1931. The amendments permit the use, subject to certain prescribed conditions, of a private system of septic sewerage, give a new definition to " agricultural land " for the purposes of rate exemptions, provide for a special rate upon " undeveloped land " and exempt property within two hundred yards of the water main from the payment of the water rate when water cannot be supplied to such property.

Ordinance No. 6 confers additional powers on the City Council of Pietermaritzburg. It authorizes the supply of water outside the borough area and the right to charge therefor. Power is granted also to the

Council to restrict the nature of any business referred to in s. 3 (1) of Ordinance No. 25 of 1936 if it is of the opinion that there is already within a particular area a sufficient number of trades or businesses in respect of which a certificate to trade is applied for.

Motor Vehicle and Road Traffic Regulations.—This Ordinance, No. 10, is largely based on the English Road Traffic Act of 1930 and amendments thereto, save that it makes no provision for third-party insurance. All previous legislation on the subject is repealed, and the Act, which consists of ninety-two sections, is divided into five parts.

Part I provides for the establishment of the Motor Traffic Bureau, which is to keep the records of orders made for the suspension and cancellation of licences.

Part II deals with the registration of motor vehicles and the licensing of such vehicles and of trailers, while Part III covers the licensing of drivers of motor vehicles. An important section of this part is s. 35 (1), which permits any court, in addition to any other penalty it may impose, to cancel or suspend the licence of a person convicted of a criminal offence under the Ordinance, or against any other law, or at common law, in connexion with the driving of a motor vehicle on a public road. If such person so convicted is not the holder of a driver's licence, the court may order him to be disqualified from obtaining one. In respect of certain offences an order of cancellation, suspension or disqualification is made compulsory, while in respect of other offences it is discretionary.

Part IV deals with the registration of public services motor vehicles and the licensing of drivers thereof. Part V deals with the regulation and safety of road traffic. Part VI contains general provisions with regard to the powers and duties of officers, offences and penalties. Part VII deals with general regulations and by-laws, while Part VIII is supplementary.

4. ORANGE FREE STATE.

[*Contributed by* H. PRING, ESQ.]

In the year 1937 the Provincial Council of the Orange Free State passed thirteen Ordinances—of these three were appropriation Ordinances (*i.e.* Nos. 1, 2 and 12).

Vermin Destruction.—The object of amending Ordinance No. 3 is to remove the aardwolf, otherwise known as the maanhaar jackal, from the list of animals to be exterminated as vermin (*vide* Ordinance No. 8 of 1926).

Tax on Persons and Companies.—Ordinance No. 4 provides for the exemption of building societies registered under the Building Societies Act, 1934, from the tax imposed by Ordinance No. 4 of 1928.

Road Boards.—The amount prescribed by s. 16 of Ordinance No. 14 of 1931 as a deposit when application is made for the appointment of a Special Road Board, in terms of s. 15 of the last-mentioned Ordinance, is by Ordinance No. 5 converted into a fee no portion of which shall be refundable upon completion of the proceedings.

Game Protection.—Ordinance No. 6 amends and consolidates the pre-existing game laws of the Province. It follows the text of the pre-existing Ordinances almost literally, but certain provisions of the former laws governing the ownership of domesticated ostriches have not been re-enacted.

Ordinance No. 13 amends Ordinance No. 6, the main provisions being the removal of the wild goose from the list of protected birds and the prohibition of the sale of game biltong in the Province of the Orange Free State.

Preservation of Fish.—Ordinance No. 7 amends s. 2 of Ordinance No. 11 of 1933 to enable the Administrator to prohibit for a specified period the fishing for any species of fish in the waters of the Province.

Motor Vehicles.—S. 1 of Ordinance No. 8 changes the final date for payment of the yearly licence duties imposed by Ordinance No. 18 of 1931 from March 31 to March 7. S. 2 gives the person selling or otherwise disposing of a motor vehicle the option (*a*) of retaining the registration and licence of the vehicle disposed of for transfer to another motor vehicle acquired by him or (*b*) of transferring the registration and licence to the person acquiring the motor vehicle disposed of by him.

Wheel Tax.—Ordinance No. 9 amends the Wheel Tax Consolidation Ordinance No. 17 of 1931. S. 1 removes an ambiguity in the original Ordinance. It was intended that the charging area should be wide enough to cover vehicles owned outside the Province but used therein, whilst s. 2 indicates where payment should be made by owners who reside outside the Province. The final date for payment of the tax is altered from March 31 to March 7.

Dogs.—Ordinance No. 10 provides for the alteration of the final date for payment of (and date for applications for exemption from) the tax imposed by Ordinance No. 8 of 1932 from March 31 to March 7 in each year.

Roads.—Ordinance No. 11 amends the Roads Ordinance No. 6 of 1932 as follows:

S. 1 adds a new definition, "roadway." The term is introduced to distinguish between the road reserve which the Administrator is empowered to proclaim and the made-up portion of the road for the construction of which the Administrator is responsible.

By ss. 3, 6 and 7 the deposit required under s. 3 of the principal Ordinance is made a fee, no portion of which is refundable.

The new s. 4A introduced by s. 4 during the committee stage for the purpose of national roads to be proclaimed as such under Act No. 42 of 1935, empowers the Administrator, without recourse to the lengthy procedure involved by an inquiry by a Road Board, to proclaim a public road where no road was previously in existence, or to divert an existing public road, or to deproclaim an existing public road no longer required. This section further requires the Administrator to act after the proclamation, diversion, or deproclamation has been considered by a commission specially appointed for that purpose.

S. 8 (*a*) removes an ambiguity in the proviso to s. 15 of the principal Ordinance; and in s. 8 (*b*) a new paragraph is added to the proviso to enable the Provincial Roads Engineer or other officers to enter land for survey purposes without the formal procedure prescribed by s. 9.

S. 10, a new section, empowers the Provincial Roads Engineer in certain cases to remove fences erected too near the centre of a roadway and to re-erect such fences at the prescribed distance at the expense of provincial funds.

5. TRANSVAAL.

[*Contributed by* A. A. HOPE, ESQ.]

During the year 1937 the Provincial Council elected in 1936 met and enacted ten Ordinances, four of which were appropriation Ordinances. The remaining Ordinances were all amendments of existing legislation.

Local Government Superannuation.—Ordinance No. 10 widens the ambit of pensionable employment for employees of the smaller municipalities who contribute to a common pension fund. The conditions of granting pensions are liberalized and the rates of contributions by employees and municipalities are increased.

Municipal Elections.—The Ordinance of 1927 is amended (No. 9) by removing a number of minor difficulties which have been shown by experience. New provisions are introduced in relation to the redelimitation of wards where equality has been disturbed beyond 15 per cent. by the movements of population. Another new provision is the requirement that a candidate for election must make a deposit of £25, which will be returned if he gets more than one-fifth of the votes of the successful candidate. In both these respects the law is brought into line with the Union Electoral Act which governs elections to Parliament and the Provincial Councils.

Taxation.—The Personal Tax has been mitigated (No. 5) by exempting from tax persons with an income of under £150 instead of £100 as previously. This tax is commonly called the Poll Tax, and is the only direct tax imposed on white persons who have a small income; it is very unpopular, and its abolition was one of the issues in the election held in 1936.

The other amending Ordinances relate to Roads and Dog Tax and introduce very minor charges which are of purely administrative importance.

6. NORTHERN RHODESIA.

[*Contributed by* P. F. BRANIGAN, ESQ., *Solicitor-General.*]

During the year 1937, thirty-three Ordinances were enacted, of which twenty were amendments to the existing law. A summary of the more important enactments is given below.

Rhodes-Livingstone Institute.—Ordinance No. 1 establishes a Board of Trustees for the preservation of the valuable objects exhibited in the museum at Livingstone and provides for the control of funds, acquisition of lands and buildings, the exchange, sale or disposal of objects belonging to the institute and other purposes in connexion with the institute. The institute is exempted from the payment of all municipal assessment rates.

Importation of Butter.—Ordinance No. 20 is designed to control the importation of butter into the Territory in the interests of local producers. Under s. 4 of the Ordinance the Governor in Council may, at any time, on the recommendation of the Board, by order published in the *Gazette*, prohibit the importation of butter into the Territory generally or prohibit such importation from any particular country or place except under licence granted by the Board for such quantities, during such period and on such conditions as the Board may in its discretion determine.

Markets.—Ordinance No. 21 provides for the establishment of native markets to foster native trade and facilitate the exchange of produce.

The management and control of markets is in the hands of local authorities in municipalities and townships and of native authorities in tribal areas. Under s. 5 the Governor may, in respect of any particular market established under the Ordinance, authorize the grant to a person referred to as the market lessee of the right to collect and retain fees, other than inspection fees, and the stallages, rents and tolls prescribed for such market in consideration of the payment of such sum of money as may be agreed between the market authority and the market lessee. No person may establish a market without the consent of the Governor.

Northern Rhodesia Regiment.—Ordinance No. 25 brings the local law into line with that of the other East African Dependencies. Provision is made for the secondment to the regiment of officers, warrant and non-commissioned officers from the British Army and for the appointment of an Inspector-General. Soldiers are to be enlisted for a period of three, six or nine years with the colours and a further six years with the reserve. New provisions in the law deal with the enlistment of followers and the application of the Army Act.

Shop Assistants.—Ordinance No. 27 limits the hours of employment to forty-seven and a half hours in any one week, except in certain specified cases, and also the number of hours during which an assistant may be employed in any one day. Save in certain specified cases, no person shall employ a shop assistant for more than six days in any week, or on a Sunday or public holiday, nor later than 1 p.m. on Wednesdays or such other day as may be appointed, nor later than 6 p.m. on all other weekdays. Every shop assistant is entitled to eighteen consecutive days' leave of absence on full pay for every year of continuous service since the date of the commencement of the Ordinance. Provision is made for the keeping of prescribed records and for the power of inspection by police officers.

Insurance.—Ordinance No. 33 requires the registration of every company carrying on insurance business in the Territory. Every registered company must have in the Territory a chief office and a principal officer, and, prior to the grant of its certificate of registration, must have deposited with the Financial Secretary money or approved securities to the amount of £10,000 in the case of a company carrying on life insurance business and £5,000 in the case of a company carrying on any other form of insurance business, provided that no company shall be required to deposit more than a total amount of £12,500. Under s. 23 of the Ordinance it is an offence to secure or attempt to secure within the Territory a proposal for insurance by a company which is not registered in the Territory. S. 24 provides that all payments due or becoming due by a company in terms of any policy issued by the company in the Territory shall be payable at the chief office of such company in the Territory in full, together with such bonuses (if any) as may have accrued to the policy, and for the purposes of this section all policies issued by companies registered or doing business in the Territory and held by persons domiciled in the Territory shall be deemed to have been issued in the Territory.

7. SOUTHERN RHODESIA.

[*Contributed by* R. J. MORTON, ESQ., M.C., K.C., *Solicitor-General.*]

The Public Acts passed in 1937, during the third session of the Fourth Parliament, occupy 398 pages; but this bulk is largely accounted for by

several consolidating measures and by the lengthy schedules to the Statute Law Revision Act. Altogether there were thirty-nine Acts, of which twenty-one were appropriation Acts or made minor amendments to existing statutes.

Revision of the Statutes.—The Revised Edition of the Laws Act (No. 8) is on familiar lines, though the powers of the revising commissioners are less extensive than those usually given in Crown Colonies. On its foundation Southern Rhodesia inherited the law which was in force in the Colony of the Cape of Good Hope on June 10, 1891, " so far as not inapplicable." The statute laws, therefore, which might have been applicable in 1937 fell into four main classes : 1. The statutes in force at the Cape prior to the permanent British occupation in 1806, which had been received partly from placaats of the States-General and the States of Holland, partly from the East India Company's directorate in Holland, partly from the Governor-General in Batavia and partly from the Governor and Council at the Cape. 2. The statutes enacted by legislatures of various kinds at the Cape between 1806 and 1891, in so far as they were applicable to the pioneer conditions of Southern Rhodesia in 1891. 3. The statutes enacted during the various stages of the Territory's evolution before the grant of responsible government in 1923 ; these included orders in council, proclamations by the High Commissioner for South Africa, regulations made before 1898 by the administrators appointed by the British South Africa Company and Ordinances of the Legislative Council. 4. Acts passed by the Parliament of the Colony from 1923 onwards.

As there had never at any stage been any authoritative revision of these statutes, it can be understood that the judges not seldom had a difficult task in deciding, first, whether any particular statute was ever applicable to the Colony, and secondly, whether, if applicable, it was still in force.

The first result of the commissioners' labours was the Statute Law Revision Act (No. 24), one object of which was to declare which of the laws of the Cape Colony were inapplicable to Southern Rhodesia. It says nothing as to laws enacted prior to 1806 by legislatures in Holland or Batavia, but repeals all laws, except two, enacted by the legislative authority established at the Cape of Good Hope prior to January 10, 1806. The list of laws enacted between 1806 and 1936 which are either declared inapplicable or repealed extends to fifty-six pages.

The General Law Amendment Act (No. 25) is also a revising measure which wholly repeals eighteen statutes and amends others in order to bring them into conformity with the present circumstances of the Colony.

Agriculture.—In this branch of legislation Parliament does not yet show any tendency to curb Ministerial powers. As foreshadowed in last year's summary, the tobacco quota system introduced by Act No. 5 of 1936 was abolished by the Tobacco Marketing Amendment Act (No. 3). For it is substituted a system of annually fixing prices below which tobacco may not be sold for export to protected markets or for local manufacture. Different minimum prices may be fixed for tobacco of different classes or types and also for different markets. The principle of restricting sales to licensed auction floors is retained, and minimum prices will be fixed by the Minister, in consultation with the Tobacco Marketing Board, before sales begin, with the object of regulating supplies of different types to their proper markets in accordance with the demand

which may be reasonably anticipated. S. 26 of this Act gives to the Minister the very drastic power of entirely preventing the sale of any particular grower's tobacco if he fails to render certain returns "completed to the satisfaction of the Minister."

The Maize Control Act (No. 6) is in the main a consolidating measure, which repeals five Acts, and provides for the continuation of controlled marketing until 1940.

The Cotton Pest Prevention Act (No. 5) prohibits the ratooning of cotton plants.

The Dairy Act (No. 28) is a comprehensive measure which deals with the regulation and control of dairies from the aspects of both industrial organization and security for public health. It repeals a large number of statutes which gave unco-ordinated powers to local authorities and other bodies; it centralizes the powers of control, from the industrial and marketing aspects, in the Minister and a Dairy Industry Control Board, and, from the public health aspect, in the Government, but allows delegation of administration to suitable local authorities. It contemplates the gradual closing of all farm butter dairies at the will of the Minister, and, eventually, the restriction of both cheese and butter-making to trained and qualified makers. Consumers are to be protected by the fixing of maximum prices for retail sales.

Another industry has been brought under centralized control by the Pig Industry Act (No. 30). It prohibits the curing of bacon for sale except at licensed factories, the number of which can be limited at the will of the Minister. Grading of carcasses for export in frozen state or for curing into bacon is made compulsory throughout the Colony, and the grading of carcasses of pigs slaughtered for sale or export in any form whatever may be made compulsory in defined areas. Provision is also made for fixing minimum prices for slaughter pigs and for the payment of bounties on exports.

The Cold Storage Commission Act (No. 37) transfers to a Government-controlled corporation the monopoly of the export of frozen meat which was formerly held by a private company, whose interests are expropriated under the Act.

The Cattle Cleansing Act (No. 34) re-enacts most of the existing law on the subject, but contains some new features, of which the most noticeable is that the Minister is given unfettered discretion to declare areas in which regular dipping of cattle shall be compulsory. The principle of local option is only retained to the extent that, outside the areas declared by the Minister, a majority of cattle owners may petition the Government to have dipping made compulsory in their own areas.

Constitution.—The Constitution Amendment Act (No. 22) removes the requirement that standing rules and orders made by the Legislative Assembly for the conduct of its business should be subject to the approval of the Governor in Council; it also enables the Legislative Assembly to pass any law, vote or resolution which has the effect of imposing, altering or repealing any rate, tax or duty, without prior recommendation by message of the Governor, but retains the requirement of such a message for the appropriation of any part of the Consolidated Revenue Fund. Both the restrictions so removed were relics of earlier forms of government. It also effects minor amendments which are consequential on the promulgation of Amending Letters Patent during the year.

The main effect of these Amending Letters Patent must be noted

here. The powers of the High Commissioner are eliminated from the Constitution. The ownership in the Native Reserves is transferred from him to a Board of Trustees, consisting of a chairman appointed by the Secretary of State and two ex-officio members, the Chief Justice and the Chief Native Commissioner of the Colony. Most of the other powers of the High Commissioner are transferred to the Secretary of State. It will no longer be necessary to consult with the Imperial Government before Bills passed by the local legislature dealing with divorce or with differential duties receive assent and are brought into operation.

Electoral.—The Electoral Act (No. 39) is lengthy, but, apart from minor alterations in the qualifications of voters and in the postal ballot system, its chief feature is the adoption of a system of continuous registration of voters and of centralization of records. In many respects this system is an adaptation of the successful system in force in the Commonwealth of Australia.

Finance.—Four Acts dealing with General Loans (No. 7), Customs and Excise Tariffs (No. 17), Customs and Excise Management (No. 23) and Income-tax (No. 29) are in the main consolidations and usefully repeal forty-eight existing statutes. New provisions are—in the Loans Act, the avoidance of the necessity for a specific statute for each loan by making the appropriation of moneys from the loan account sufficient authority to borrow money to meet the expenditure; in the income-tax law, a slightly wider spreading of the collector's net and a relaxation of formality on appeals from the Commissioner's decisions; and in the customs laws, the conferring of powers to enable the Governor to conclude tariff agreements with other parts of the Empire and, subject to certain restrictions, with foreign states.

Industry.—The Industrial Conciliation Amendment Act (No. 36) gives further protection to skilled labour in municipal areas. If an agreement has been reached by an industrial council or conciliation board and the Governor is satisfied that in any municipal area the object of the agreement might be defeated by the employment of natives at rates of wages or under conditions other than those specified in the agreement, he may make any or all of the terms of such agreement binding on natives employed in the industry concerned in that area. In theory this should have the effect of preventing any colour bar by insisting on equal wages for equal skill; it remains to be seen whether the native will be able to attain, or will have equal opportunities to attain, the same standard of skill as the European.

Natives.—The Native Councils Act (No. 38) fills a gap which was deliberately left in the Constitution by the Amending Letters Patent. For the general powers of establishing native councils which were formerly in the Constitution it substitutes legislation of the Colony itself which standardizes and sets out in greater detail the method of establishing such councils and their functions and powers. There will be no set limit to the number of members of a council, though it will automatically include all chiefs and headmen duly appointed for its area and may also include others who hold no such official appointment. No European can be a member of a council, but the Native Commissioner will be its adviser and exercise its executive powers. The legislative and administrative powers of a council do not include any taxing power, but cover a fairly wide field of local administration, such as water supplies, roads, soil conservation, marketing, housing and preservation of public health.

Provision is made for joint sessions of councils or their delegates for discussing subjects of common interest.

The Native Law and Courts Act (No. 33) has two aims. It first clarifies the existing statutory provisions as to the law to be administered by all courts in civil cases between natives. Secondly, it sets up purely native courts, presided over by native chiefs or headmen. Such courts will have no jurisdiction in criminal matters or in divorce ; in civil cases their jurisdiction will be confined to actions and suits which are capable of being decided according to native law and custom. This experiment is new to the Colony, though to some extent it only gives legal recognition to tribal courts which have always been functioning under the rose. For this experimental stage native commissioners are given such extensive powers of revising and rehearing cases, either on their own initiative or on appeal, that the jurisdiction of these courts will really rest entirely on the consent of parties.

BRITISH EMPIRE.

VII. BRITISH INDIA AND BURMA.

1. CENTRAL LEGISLATURE.

[*Contributed by* BIND BASNI PRASAD, ESQ., M.A., LL.B.]

THE year 1937 will remain a landmark in the annals of the constitutional development of India. On April 1, 1937, the new Constitution under the Government of India Act, 1935, came into force in the Provinces. Though the Federation has not yet been established, a demarcation of legislative jurisdiction between the Centre and the autonomous Provinces on federal lines took effect from that date. This note deals with the legislation at the Centre only. Within their allotted fields, the Provinces make their own laws.

Articles on the new Indian Constitution have already appeared in the pages of this *Journal*,[1] and it is unnecessary to describe it. Suffice it to say that owing to the peculiar problems facing the framers of the Constitution it has many features not to be found in any of the federal Constitutions which have preceded it.

Twenty-nine Acts passed by the Central Legislature, fifteen Regulations made by the Governor-General and one Act, namely the Finance Act, made, after refusal by the Legislature to enact it, by the Governor-General in exercise of his powers under s. 67 B. of the Government of India Act (a section which continues to have effect notwithstanding the repeal of that Act by the Government of India Act, 1935) were the additions in 1937 to the Statute Book at the Centre. The Regulations were made under s. 71 of the Government of India Act, as applied to the newly created Provinces, before the commencement of Part III of the Government of India Act, 1935, and are mainly concerned with adjustments of the laws applicable in those Provinces. No occasion arose requiring the Governor-General to promulgate any Ordinance in exercise of his emergency powers. Seven of the Acts and three of the Regulations are substantive enactments, while the rest are amending measures. The enactments may be conveniently grouped under the following headings :

Agriculture.—The Agricultural Produce (Grading and Marking) Act, No. 1, is designed to encourage sorting and packing of agricultural produce according to prescribed grade specifications, and the marking of such grades of produce in a distinctive manner. The authorized labels, seals and marks are expected to acquire a trade value by reason of the guarantee that they will offer of the produce to which they are attached having been graded under supervision. The Act penalizes the improper use of such labels, seals and marks. It applies in the first instance only to fruit,

[1] See vol. xvii, pt. i, pp. 109–14 ; pt. iv, pp. 276–80 ; vol. xix, pt. ii, pp. 2–3.

vegetables, eggs, dairy produce, tobacco, coffee, hides and skins, but its application can be extended to other articles of agricultural produce.

Commerce and Industry.—Seven Acts, all of an amending nature, fall under this head. Most of them are designed to adjust the administration to the constitutional changes, *e.g.* the Indian Electricity (Amendment) Act, No. 10, and the Indian Boilers (Amendment) Act, No. 11. The Indian Mines Act, 1923, was amended by No. 29 to confer permanently on the Chief Inspector of Mines certain powers to avert apprehended danger, which were conferred experimentally for a period of two years by an Act passed in 1936. The provisions of the Act relating to the setting up of rescue stations and the defraying of their cost were also revised.

Conventions and Treaties.—By the Indian Naval Armament (Amendment) Act, No. 2, effect is given in British India to the Treaty for the Limitation of Naval Armament and for the exchange of information concerning Naval Construction signed in London on March 25, 1936. Another Act, No. 6, implements the Geneva Protocol on Arbitration Clauses (1923) and the International Convention on the Execution of Foreign Arbitral Awards (1927).

Defence.—An amendment, No. 15, of the Indian Army Act, 1911, provides for making subject to that Act an officer belonging to certain Indian Reserve Forces when ordered on any duty or service for which he is liable as a member of such force.

Fiscal.—Measures under this head were six in number. The Finance Act, to the making of which by the Governor-General reference has already been made, continues for a further period of one year certain duties and taxes imposed under the Act of 1936, which would have expired on April 1, 1937, and enhances the import and excise duties on silver and sugar. The Land Customs (Amendment) Act, No. 3, was passed to remove certain administrative difficulties and to secure uniformity in customs administration throughout India. The Indian Income Tax (Amendment) Act, No. 4, amends the Act of 1922 in order to abolish the practice of evading taxation by means of nominal partnerships between husband and wife or parents and minor children or by the nominal transfers of assets to a wife or minor child. The remaining two Acts under this heading amend the Indian Tariff Act, 1934, No. 21 for the purpose of maintaining a protective duty on rice and No. 27 to remove doubt about the liability of wheat flour to a revenue duty. The Orissa Ports Regulation authorizes the levy of dues upon goods in the ports of Orissa.

Law and Justice.—Two Acts relate to the Federal Court established under the new Constitution. No. 25 empowers it to make rules for regulating the service of processes issued by it. No. 14 amends the Indian Limitation Act, 1908, in order to exempt suits brought in the Federal Court from the operation of Art. 149 of that Act. The Contempt of Courts (Amendment) Act, No. 12, limits the penalty that may be imposed by a High Court under any other provision of law for any contempt of itself or of a court subordinate to it, to that specified in the Contempt of Courts Act, 1926. Three Acts amending the Code of Civil Procedure provide for reciprocal arrangements for the enforcement of judgments obtained in the various parts of the British Empire (No. 8), for exemption from attachment of certain salaries and allowances (No. 9) and for ensuring that a guardian appointed in a lawsuit for a minor or a lunatic shall continue as such up to the end of the proceedings unless his

appointment is duly terminated by retirement, removal or death (No. 16). One Regulation applicable to the Sonthal Parganas varies the period of limitation for the execution of decrees below Rs. 1,000. Another Regulation makes the Abkari (Excise) law uniform in Orissa.

Labour.—Act No. 7, amending the Workmen's Compensation Act, 1923, is in the interests of the dependants of workmen meeting with fatal accidents. It authorizes the transfer of proceedings for the distribution of compensation among the dependants from India to the country where the dependants live. The immediate need for the Act arose from the separation of Burma from India. Act No. 22, amending the Payment of Wages Act, 1936, remedies a defect in that Act by providing that an employer shall not be liable to pay wages to workmen who, though present, decline to work.

Marriage and Other Personal Law.—Marriage between parties belonging to different castes of Hinduism is regarded as invalid and the offspring of such marriages is regarded as illegitimate. The Arya Marriage Validation Act, No. 19, promoted by a non-official member of the Legislature, recognizes the validity of intermarriages among the different castes of that section of the Hindu population known as the Arya Smajists. This is an important social measure which will conduce to cohesion in the Hindu Community. Another Act, also owing its origin to the initiative of a private member, the Hindu Women's Rights to Property Act, No. 18, secures certain new rights to property for Hindu widows. A third such Act (No. 26) makes provision for the application, at the option of the persons concerned, of the traditional Muslim personal law unaffected by any customs or usages at variance therewith to all questions regarding succession, marriage, dissolution of marriage, maintenance, dower, gifts, trusts, wills and legacies where the parties are Muslims. A Regulation applicable to a district in Orissa validates certain marriages among Christians solemnized by a minister of religion under a misapprehension prior to the grant to him of authority to solemnize marriages.

Miscellaneous.—The Indian Red Cross Society Act, 1920, was amended by No. 17 in order to allow a separate Society to be set up in Burma. The Indian Securities Act, 1920, was amended by No. 28 to enable the Reserve Bank of India to perform certain functions relating to the issue of duplicate, renewed, converted, consolidated or subdivided securities. A Repealing and Amending Act, No. 20, in stereotyped form repeals certain enactments which are spent or have otherwise become unnecessary and makes certain amendments of a formal nature in other Acts.

2. MADRAS.

[*Contributed by* P. APPU NAIR, ESQ., O.B.E., *Secretary to Government, Legal Department.*]

Acts passed—15.

Children.—Act No. 1 empowers a court to commit a youthful offender to the custody of a person who is not his relative, and also to place a child who is subject to immoral influences in suitable custody. Power has also been taken to send an uncontrollable child over fourteen but under sixteen years of age to a senior certified school, on the application of his parent or guardian.

Courts.—Act No. 2 makes certain amendments to the Madras Village

Courts Act, 1888 (Madras Act No. 1 of 1889), mainly intended to improve the procedure in village courts.

Probation of Offenders.—Act No. 3 provides a scheme of probation for first offenders. The Act will apply in the first instance to the City of Madras and a few other selected areas. Power has been taken to extend it to other areas if the Act works successfully.

Industries.—Act No. 7 incorporates certain amendments which are intended to amplify the scope of the Madras State Aid to Industries Act, 1922 (Madras Act No. 5 of 1923).

Act No. 13 enlarges the scope of the principal Act so as to permit of the grant of subsidies to cottage industries without any restriction and of suitable assistance to village industries.

Money-lending.—Act No. 8 makes the exercise of the powers conferred on courts by the Usurious Loans Act, 1918, an Act of the Central Legislature (India Act No. 10 of 1918), *obligatory* in suitable circumstances and also provides that if compound interest is charged on loans to agriculturists, such interest shall be presumed by courts to be excessive.

Ministers' Salaries, etc.—Act No. 9 fixes the salaries and allowances of the Ministers and Parliamentary Secretaries, the Speaker and Deputy Speaker of the Legislative Assembly, the President and Deputy President of the Legislative Council, and the members of the Legislature. Ministers will get a salary of Rs. 500 *per mensem* and a conveyance and house allowance of Rs. 250 *per mensem*. The salary and allowances represent an amount equivalent to £675 per annum. Members of the Legislature will get a salary of Rs. 75 *per mensem*, equivalent to £67½ per annum, in addition to travelling allowances.

Prohibition.—Act No. 10 is intended to put an end to the drink evil by the prohibition, except for medicinal, scientific, industrial or such like purposes, of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs. Provision has been made for the issue of licences, permits and authorities for the use of liquor for any religious purpose in accordance with ancient custom, and for the possession of liquor for personal consumption in certain cases. Proper provision has been made for the due enforcement of the Act. The Act extends in its entirety in the first instance to the district of Salem but power has been taken to extend it to other districts from time to time.

Local Government.—Act No. 11 cancels all nominations made to district boards and secures representation for minority communities and for women by means of co-option by the elected members of the district board concerned.

Act No. 15 extends the term of office of the members of certain municipal councils and local boards with a view to the elections being held after the passing of a measure providing for a considerable extension of the franchise.

Trade and Commerce.—Act No. 12 makes a licence necessary for selling cloth. Dealers exclusively engaged in the sale of hand-loom products will get licences free, while others will pay a small fee.

Miscellaneous.—Act No. 4 amends the Madras General Clauses Act, 1891, so as to remove a doubt as to the effect of the repeal of an amending Act which has made textual alterations in a previous Act. It has been made clear that the repeal of an amending Act does not affect the continuance of the amendments made by it.

3. BOMBAY.

[*Contributed by* G. B. PALEKAR, ESQ.]

During 1937 six Acts were passed by the Bombay Legislature and, having received the assent of His Excellency the Governor or His Excellency the Governor-General, as the case required, became law. The main purposes of the various Acts are briefly stated below:

Legislature.—Act No. 1 (The Bombay Legislature Members (Removal of Disqualifications) Act, 1937) specifies the offices of profit under the Crown in India which will not disqualify their holders from being chosen as or for being members of the provincial legislature.

Salaries.—Act No. 2 (An Act to provide for the salaries of the President and the Deputy President of the Bombay Legislative Council and of the Speaker and the Deputy Speaker of the Bombay Legislative Assembly and certain other matters), Act No. 3 (An Act to provide for the salaries and allowances of Members of the Bombay Legislature) and Act No. 4 (An Act to provide for the salaries of the Ministers of the Government of Bombay and certain other matters) were all passed to carry out the purposes mentioned in their respective titles.

Weights and Measures.—Act No. 5 amending the Bombay Weights and Measures Act, 1932, places all the local bodies on the same footing in relation to the contribution they have to make to Government from the fees levied by them under subs. (1) of s. 27 of the Bombay Weights and Measures Act, 1932, and requires them to credit to Government only the balance of fees levied by them after deducting their expenses.

Limitation.—Act No. 6 amending the Indian Limitation Act, 1908, in its application to the Province of Bombay raises the period of limitation for summary suits under the existing Art. 5 in the First Schedule to the Indian Limitation Act from one year to three years by inserting a new Art. 64 A. for the said Art. 5.

4. BENGAL.

[*Contributed by* H. D. BENJAMIN, ESQ.]

The legislative output in Bengal was small during the year 1937, the reason being dependent upon the initiation of the new constitution in April. No legislation was undertaken during the first four months and the first session of the Legislature under the reformed constitution was confined to the elections of the President of the Council and the Speaker of the Assembly and their Deputies.

Constructive legislation commenced during the Monsoon session, but the work to which the Legislature devoted most of its time, a Bill revising considerably the relations between landlord and tenant, was not completed during the year under review and will be dealt with in the note for 1938.

Salaries.—In all, only three Bills were passed and they were of a routine nature. Two of them, Nos. 1 and 2, provided salaries for the Council of Ministers and for the members of the Legislature. A third Bill of a similar kind to provide salaries for the President and Speaker and their Deputies furnished the first Bengal instance of disagreement between the Chambers and the Bill was not passed during the year.

Legislature.—The third Bill to be passed, the Bengal Legislature (Removal of Disqualifications Act), No. 3, was of enabling nature: it rendered eligible for election to the Legislature holders of certain special

offices of profit under the Crown, such as Parliamentary Secretaries, part-time officers and officers under a railway administration.

Regulations.—Three Regulations under s. 92 of the Government of India Act, 1935, were made by the Governor during the year. They all related to the Chittagong Hill-tracts, an excluded area, and dealt respectively with excise, income-tax and court-fees in that area.

5. UNITED PROVINCES.

[*Contributed by* HARISH CHANDRA, ESQ.]

Eleven Bills which were passed by the Assembly during the year under review received the assent of His Excellency the Governor and became Acts.

Legislature.—The United Provinces Ministers' Salaries Act lays down that Ministers shall be paid Rs. 500 *per mensem* and be entitled to free residence. The United Provinces Legislature (Officers' Salaries) Act lays down the salaries of the Speaker, Deputy Speaker, President and Deputy President and provides for a free residence for the Speaker. The United Provinces Parliamentary Secretaries (Removal of Disqualification) Act enables salaried Parliamentary Secretaries to continue to be members of the Provincial Legislature.

Tenancy.—The Agra Tenancy (Amendment) Act enables tenants in certain permanently settled areas to sue for abatement of rent and extends the period for instituting these suits.

Entertainments and Betting Tax.—This Act imposes a tax on amusements and betting on the lines of the Acts in force in Bengal, Bombay and the Punjab.

Agriculturists' Relief.—This amendment provides for the levy of court fees on plaints and applications under the original Act.

Muslim Waqfs.—This amendment was passed to legalize the appointment of Provincial Commissioners of Waqfs.

Temporary Postponement of Execution of Decrees.—The object of this Act is to prevent agriculturists from being compelled to pay up amounts which they could not really afford to pay, or which it was inequitable that they should be called upon to pay pending legislation on the subject. The Act provides that the execution of certain types of decrees against agriculturists should be postponed as a temporary measure.

Stay of Proceedings (Revenue Courts).—The most important Act passed and the only one which provoked lively discussion was No. 4, amended by No. 6. On assuming office the Congress Government had stayed various revenue proceedings in order to protect cultivators. These orders had been attacked as being illegal, and legislation was therefore introduced to legalize the position. Some concession was made to the interests of zamindars, and the Bill was slightly more favourable to them than were the stay orders. Accordingly the zamindars, while disapproving the principle of the staying of proceedings, were not anxious to vote against the Bill. The Bill provided for the stay of all original suits for arrears of rent prior to 1344 *rabi* and provided for the stay of other proceedings including ejectment. The zamindars generally urged that it was inequitable to stay the proceedings of rent realization while no steps were being taken to stay the realization of revenue or to refund revenue that had already been paid. The Bill was eventually adopted *nem con.*

6. PUNJAB.

[*Contributed by* R. B. BECKETT, ESQ., *Secretary to Government, Legislative Department.*]

Acts passed—4.

Ministers' Salaries.—Act No. 1 implements the provisions of subs. (3) of s. 51 of the Government of India Act, 1935.

Removal of Disqualifications.—Act No. 2 implements the provisions of clause (*a*) of subs. (1) of s. 69 of the Government of India Act, 1935, and removes disqualifications for election of certain holders of offices of profit under the Crown.

Speaker's and Deputy Speaker's Salaries.—Act No. 3 implements the provisions of subs. (4) of s. 65 of the Government of India Act, 1935.

Allowance of Members.—Act No. 4 implements the provisions of s. 72 of the Government of India Act, 1935.

7. BIHAR.

[*Contributed by* PANDE N. K. SAHAY, ESQ., B.L., *Assistant Secretary to Government, Legislative Department.*]

The following Acts were passed during the year 1937. They were all official measures.

Ministers' Salaries.—Act No. 1 provides that the salaries of Ministers should be fixed at Rs. 500 a month.

Legislature (Officers' Salaries).—Act No. 2 was passed for the purpose of fixing the salaries of the Speaker and the Deputy Speaker of the Assembly and of the President and the Deputy President of the Council under s. 65 of the Government of India Act, 1935. The salaries were fixed at Rs. 500 a month each in the case of the Speaker and the President and at Rs. 250 a month each in the case of the Deputy Speaker and the Deputy President.

Legislature (Removal of Disqualifications).—Act No. 3 declares that the holders of the offices of Advocate-General and Parliamentary Secretaries and persons holding commissions in certain branches of the army and also certain classes of employees of State Railways are not to be disqualified for being chosen as, or for being, members of the legislature.

Famine Relief Fund.—Act No. 4 provides that any expenditure required to be incurred in any financial year under subs. (2) of s. 7 of the Bihar Famine Relief Fund Act, 1936, shall be charged on the revenues of the province.

Entertainments Duty.—Act No. 5 imposes, for revenue purposes, a tax on all payments for admission to any public place of entertainment and the collection of such tax generally is to be by means of stamps affixed to the tickets for admission.

Stamps.—Act No. 6 enhances the rates of stamp duty on certain instruments with the intention of increasing the Provincial revenue from such duty.

Sugar Factories Control.—The Indian Sugarcane Act, 1934, was not sufficiently comprehensive to deal with the problems of the sugar industry. Hence, it was considered necessary to replace the Indian Act by a more comprehensive measure. It was necessary to provide for improving the sugar industry and the cultivation of sugar-cane. It was also necessary to check unhealthy competition tending to jeopardize the interests of

sugar-cane cultivators. With these objects in view Act No. 7 provides for the licensing of sugar factories and regulating the supply of sugar-cane to such factories, for fixing the minimum price of sugar-cane, for establishing a sugar Control Board and Advisory Committees and for imposing a tax on the sale of sugar-cane intended for use in factories.

Tenancy.—The object of Act No. 8 is to mitigate some of the hardships which the tenantry of the province have been labouring under as a result of the operation of some of the provisions of the Bihar Tenancy Act, 1885. The main changes introduced are the following: (1) abolition of the danabandi system and fixation of the landlord's share in the produce at 18 seers in the maund, where rent is paid under the batai system; (2) compulsory commutation of rent when an application in this behalf is made by the raiyat of a holding; (3) reduction of the rate of interest payable by a raiyat on arrears of rent; (4) making illegal exactions by landlords or their amlas penal and a cognizable offence punishable with fine or imprisonment or both; (5) provision for the reduction or remission of rent in certain cases; (6) provision for the sale of only a part of a holding in execution of a decree for arrears of rent—a part sufficient to discharge the decree; (7) provision making a partition of a holding between co-sharers binding on the landlord subject to the landlord's consent regarding the distribution of the rent of the holding; and (8) immunity of a raiyat against arrest and imprisonment in execution of a decree for arrears of rent and exemption of his homestead from sale in execution of such a decree.

8. CENTRAL PROVINCES AND BERAR.

[*Contributed by* C. R. Hemeon, Esq., I.C.S.]

The Government of India Act, 1935, relating to the Provincial Constitution, was brought into operation on April 1, 1937. Twenty-four Acts were passed by the legislature constituted under the Government of India Act, 1919, and four Acts by the newly constituted Assembly. Many of the enactments were amending ones; and only the following need be mentioned.

Agriculture.—Act No. 1 deals with the establishment of land mortgage banks in the Province with a view to providing for the grant of long-term loans to owners of land or other immovable property, to enable them to discharge their debts, to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes. This Act combined with the Debt Conciliation Act already in force forms a complete whole so far as financing of agriculture is concerned.

Act No. 2 (amending Act) does away with the power of arrest and detention of a defaulter in a civil jail for the recovery of arrears of land revenue.

Act No. 20 prohibits and penalizes the cultivation of Garrowhill cotton in the best interests of the cotton trade and the general economic prosperity of the province.

Labour.—Act No. 21 regulates the labour of women and children and makes provision for the welfare of labour in factories to which the Factories Act does not apply.

Protection of Debtors.—Act No. 4 seeks to protect debtors from molestation and intimidation by their creditors. S. 3 of the Act in defining

" molestation " lays down that a person who obstructs, or uses violence to, or intimidates a debtor, or persistently follows him from place to place, etc., shall be deemed to molest such other person. The penalty provided for this offence is simple imprisonment or fine which may extend to Rs. 500, or both.

Social.—Act No. 18 provides for the better management and administration of religious and charitable public trusts in the Province. Under s. 3 the trustees of every trust property, the gross annual income of which is not less than Rs. 500, are required to keep regular accounts of all movable and immovable property. S. 12 provides that any three persons having interest in a public trust and following the same religion, religious belief or sect for the benefit of which the trust is created, may make a report to the court of the mismanagement, etc., and initiate action.

9. ASSAM.

[*Contributed by* A. L. Blank, Esq., I.C.S., *Secretary to Government, Legislative Department.*]

There are two Chambers in the Assam Provincial Legislature, known respectively as Assam Legislative Council and Assam Legislative Assembly. During the year 1937 the following legislation has been passed by the reformed legislature in Assam.

Local Rates.—In view of the general distress and continued depression prevailing in the country the enhanced local rates in the districts of Goalpara and Sylhet (in Assam) proved unsuitable. The rate has therefore been restored to the original level by No. 1.

Speaker's and Deputy Speaker's Salaries.—In pursuance of s. 65 (4) of the Government of India Act, 1935, the Assam Legislature has fixed the salaries of the Speaker and the Deputy Speaker of the Assam Legislative Assembly at Rs. 1,000 per month and Re. 1 per annum respectively by Acts Nos. 2 and 3.

Ministers' Salaries.—In pursuance of s. 51 (3) of the Government of India Act the Assam Legislature has by Act No. 4 determined the salary of the Chief Minister at Rs. 2,500 a month and of each of the other Ministers at Rs. 1,500 a month.

President's and the Deputy President's Salaries.—In pursuance of subs. (4) and (5) of s. 65 of the Government of India Act the salaries of the President and the Deputy President have been fixed by the Assam Legislature by Acts Nos. 5 and 6 at Rs. 500 per month during the sessions of the Council with a double halting allowance for a fortnight preceding its commencement and for ten days following its termination, and at Re. 1 per annum respectively.

Court of Wards.—With a view to strengthening the hands of the Court of Wards against unsecured creditors and to give the Court of Wards better facilities for guarding the true interest not only of the Wards themselves but also of all the creditors as opposed to those few creditors who take action in the Civil Courts, Act No. 7 was enacted amending the Bengal Court of Wards Act (No. 11 of 1879) in its application to Assam.

Municipal (Removal of Female Ineligibility).—In view of the increase in the number of women voters in every municipality in Assam, the Assam Legislature has by Act No. 8 removed the bar against women seeking election as municipal commissioners.

10. NORTH-WEST FRONTIER PROVINCE

[*Contributed by* SARDAR BAHADUR SARDAR RAJA SINGH, M.A., LL.B., *Secretary to Government, Legislative Department.*]

Ministers' Salaries.—Act No. 7 was passed to determine the salaries of the Ministers of the North-West Frontier Province Government. The salary was fixed at the rate of Rs. 500 and Rs. 150 motor-car allowance *per mensem.*

Removal of Disqualifications.—The object of Act No. 8 is to secure that the electorate shall not be debarred from choosing as members of the Legislature persons who, though they hold certain offices which might be called offices of profit under the Crown, are at the same time not whole-time Government servants. Such as Lambardars and Inamdars. The second object is to save from disqualification persons who may be appointed to be Parliamentary Secretaries.

Legislative Assembly Speaker's and Deputy Speaker's Salaries.—The salaries of the Speaker and Deputy Speaker of the North-West Frontier Province Legislative Assembly is fixed at Rs. 500 and motor-car allowance of Rs. 150 and Rs. 150 *per mensem* respectively, by Act No. 9.

Entertainments Duty.—Act No. 11 imposes a duty in respect of admission to entertainments in the North-West Frontier Province.

Criminal Procedure (Election Offences).—The Criminal Procedure Code is amended and the offence of personation at elections is made cognizable.

Punjab Municipal Act.—The system of nomination to the local bodies was abolished. The local bodies were empowered to elect their President.

Punjab District Board.—The system of nomination to the local bodies was abolished. The local bodies were empowered to elect their President, and the taking of oath of allegiance was repealed.

Muslim Waqf Bill.—The object of the Bill was to make provision for the better governance, administration and supervision of certain classes of Muslim public waqfs in the North-West Frontier Province.

The Bill was returned to the Legislative Assembly by the Governor for removing certain technicalities.

Contempt of Court.—The Act empowers the Court of the Judicial Commissioner, North-West Frontier Province, to punish contempts of itself and those of subordinate courts.

Northern India Canal and Drainage.—The provision which provided for forced labour in the Northern India Canal and Drainage Act, 1873, was repealed.

Courts Regulation.—The Bill made some technical amendments in the North-West Frontier Province Courts Regulation, 1931. It was returned to the Legislature by the Governor, North-West Frontier Province, recommending some further amendments.

Punjab Municipal Act.—Provision was made to empower the Municipal Committees to recover rent summarily.

Tobacco Vend Fees.—The Act imposes and levies a fee on the sale of manufactured tobacco.

Public Utility Services.—The object of the Act is to empower the Provincial Government to control Public Utility Services and thus to provide against a situation in which, for one reason or another, the public may be put to grave inconvenience owing to the refusal of a Public Utility Company to continue its functions.

Prohibition.—The Bill introduced and extended the Prohibition of the

manufacture, sale and consumption of intoxicating liquors and drugs in the North-West Frontier Province.

It was returned to the Provincial Chamber by the Governor, North-West Frontier Province, for making some minor change in the Schedule attached to the Bill.

11. ORISSA.

[*Contributed by* C. G. NAIR, ESQ., B.A., B.L., *Secretary to Government, Law Department.*]

Acts passed—6.

After the introduction of Part III of Government of India Act and the inauguration of the Reformed Legislative Assembly in Orissa with effect from April 1, 1937, six Acts were passed during 1937.

General Clauses.—Act No. 1 is the Orissa General Clauses Act; it aims at the proper interpretation of the Acts of the Legislature of the province; it repeals the Bihar and Orissa General Clauses Act, 1917, the Madras General Clauses Act, 1867 and 1891, and the Central Provinces General Clauses Act, in their application to the Province.

Land Tenure.—Act No. 2 is the Madras Estates, Land (Orissa Amendment) Act. It provides for the temporary protection of the occupancy right of ryots in whole Inam villages, and directs stay of proceedings in ejectment of such tenants up to March 1, 1938, pending the enactment of a Law on the subject after full consideration.

Local Administration.—By Act No. 3, the Orissa Ministers' Salaries Act, the salaries of the Ministers are fixed. Act No. 4, the Orissa Legislative Assembly Speakers' and Deputy Speakers' Salaries Act, fixes the salaries of the Speaker and the Deputy Speaker of the Legislative Assembly. Act No. 5, the Orissa Offices of Profit (Removal of Disqualification) Act, removes the disqualifications of membership in the Legislative Assembly from persons holding the offices of Parliamentary Secretaries.

Relief of Indebtedness.—Act No. 6, the Agriculturists' Loans (Orissa Amendment) Act, repeals the Agriculturists' Loans (Madras Amendment) Act in its application to the Province. It amends the Agricultural Loans Act, 1884, so as to enable the Provincial Government to make rules for the grant of loans for relief of indebtedness as well as of distress thereunder.

12. SIND.

[*Contributed by* M. D. BHAT, ESQ., I.C.S., *Secretary to Government, Legal Department.*]

Acts passed—4.

Sind was constituted into a separate Province by the Government of India (Constitution of Sind) Order, 1936, which came into force on April 1, 1936.

For the first year of its life, that is, up to March 31, 1937, this Province did not have any Legislature of its own and such legislation as was necessary was enacted in the form of Regulations made by the Governor-General in Council under s. 71 of the Government of India Act.

The Sind Legislative Assembly held two sittings—one in April and the other in August 1937. Very little legislative work was done and only four Acts were passed.

Provincial Executive.—Act No. 1 prescribes the salaries of Ministers.

Provincial Legislature.—Act No. 2 prescribes the salaries of the Speaker and the Deputy Speaker of the Sind Legislative Assembly. Act No. 3 was passed to enable holders of certain offices under the Crown in India to retain their seats in the legislature.

Famine Insurance.—Act No. 4 was passed to provide for the establishment and maintenance of a famine relief fund for meeting expenditure at the time of famine or of distress caused by serious drought, flood or any other natural calamity.

13. COORG.

[*Contributed by* THE ASSISTANT SECRETARY TO THE CHIEF COMMISSIONER.]

Co-operative Societies.—Act No. 2 of 1936, which received the assent of the Governor-General on February 27, 1937, was enacted so as to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists, and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Province of Coorg. This is based mainly on the Madras Co-operative Societies Act, 1932 (No. 6 of 1932) and supersedes the Co-operative Societies Act, 1912 (Central Act No. 2 of 1912). The Act was brought into force on July 1, 1938.

Agriculturists' Loans.—Act No. 3 of 1936, which received the assent of the Governor-General on March 7, 1937, amends the Agriculturists' Loans Act, 1884, in its application to the Province of Coorg, so as to bring the grant of loans for the relief of indebtedness within the scope of subs. (1) of s. 4 of the Agriculturists' Loan Act, 1884.

Motor Vehicles Taxation.—Act No. 1 of 1937 amends the Coorg Motor Taxation Act, 1932, (i) to provide specifically for the issue of half-yearly and annual licences; and (ii) to take power to issue licences for short periods not exceeding one month in respect of motor vehicles entering Coorg.

District Fund Regulation.—Under ss. 3 A. and 3 B. of the Coorg District Fund Regulation, 1900 (No. 6 of 1900), as it stood before this amendment was made, cess was levied on all lands, including those newly brought under cultivation, although such newly cultivated lands did not yield any produce for some years and full assessment of land revenue is not levied on such lands until the initial concession allowed under the revenue rules expires. It was proposed to follow the same procedure in regard to the levy of cess as in the case of land revenue. A proviso has accordingly been added by Act No. 2 of 1937, to s. 3 B. of the Regulation so as to allow similar concession in the matter of levy of cess also.

14. BURMA.

[*Contributed by* H. McG. ELLIOT, ESQ., *Secretary to the Senate.*]

The year 1937 marks a new epoch in the history of parliamentary institutions in Burma.

The Government of Burma Act, 1935, which came into operation in the Spring of 1937 not only separated Burma from India and accorded her a new constitution but it altered very materially the composition and

powers of her Legislature. Prior to the coming into force of this Act the Legislature was a uni-cameral one, known as the Burma Legislative Council, which consisted of 103 members of whom two (the two Members of the Governor's Executive Council) were *ex-officio* members, eighty were elected members and twenty-one were members nominated by the Governor. Of these twenty-one not more than fourteen could be officials. The nominated officials were generally the Secretaries to Government and other Heads of Departments and collectively they came to be designated as the " Official Bloc," a term which was always coupled with opprobrium by opponents of the constitution.

The new Legislature is a bi-cameral one. The Act lays down that it shall consist of His Majesty, represented by the Governor, and two Chambers to be known, respectively, as the Senate and the House of Representatives. The Senate consists of 36 members, half of whom are elected by the members of the House of Representatives and half of whom are nominated by the Governor. The House of Representatives consists of 132 members, all of whom are elected by various constituencies. Apart from the Ministers and Parliamentary Secretaries, there are now no officials in either Chamber, for the Act of 1935 expressly provides that a person shall be disqualified for being a member of either Chamber if he holds any office of profit under the Crown in Burma other than an office declared by an Act of the Legislature not to disqualify its holder. The " Official Bloc," which was such a feature of the old Burma Legislative Council, is therefore a thing of the past.

With the exception of certain financial Bills, which may be introduced only in the House of Representatives, Bills may originate in either Chamber of the Legislature. When a Bill has been passed by both Chambers of the Legislature it has got to be presented to the Governor, who may then declare that he assents in His Majesty's name to the Bill, that he withholds assent therefrom or that he reserves it for the signification of His Majesty's pleasure. S. 43 of the Act also empowers the Governor to enact Acts in certain cases for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under the Act required in the exercise thereof to act in his discretion or to exercise his individual judgment.

During the year under review one Act was enacted by the Governor under the provisions of s. 43 of the Government of Burma Act, and five Acts were passed by the two Chambers of the Legislature and assented to by the Governor.

Frontier Force.—The Act framed by the Governor is the Burma Frontier Force Act (No. 1). In Bill form it was originally introduced in the House of Representatives but the motion that the Bill be taken into consideration was, on a division being taken, rejected by that Chamber. The Bill was then enacted as an Act by the Governor, who sent the following message to the two Chambers :

> The Burma Frontier Force Bill having been rejected by the House of Representatives, and it being necessary to make provision for the matters contained in that Bill, I enact forthwith under the provisions of s. 43 (1) (*a*) of the Government of Burma Act, 1935, the Burma Frontier Force Act, being the Bill as originally introduced to the Legislature with certain amendments. A copy of the Act is attached.

For the reasons stated in the Report of the Joint Committee on Indian Constitutional Reform His Majesty's Government decided to place the

Frontier Battalions and the Reserve Battalion of the Burma Military Police directly under the Governor as part of the Defence organization and to convert them into a force to be known as the Frontier Force with effect from April 1, 1937, the day on which Burma was to be separated from India.

The object of the Frontier Force Act was to give effect to this decision. The provisions of the Act follow very closely those of the Burma Military Police Act, but the opportunity was taken to effect a few minor changes so as to make the law more suitable for a force employed mainly in the Frontier districts.

The five Acts which were enacted in the regular way are the Burma Lighthouse Act, the Legislature (Officers' Salary) Act, the Criminal Procedure Code (Amendment) Act, the Parliamentary Secretaries Act and the Registration (Amendment) Act.

Lighthouses.—Act No. 2 replaces the Indian Lighthouse Act, 1927, so far as Burma is concerned. Under the Indian Act lighthouses were divided into two categories, local lighthouses and general lighthouses, the former being administered by Port Funds out of port dues and the latter by the Government of India out of lighthouse dues collected from ships benefiting from general lighthouses. It was felt that if separate arrangements were to be made for the administration of Burma and Indian general lighthouses after separation, the total cost of the administration would be heavier than before and that it would be necessary for ships to pay dues to each administration with some consequent hampering of trade. It was, therefore, considered desirable to make it possible for unified administration to be continued. With this end in view a provision was inserted in the Act which makes it possible to invite the Government of India to enter into a contract to carry on the administration of Burma general lighthouses on behalf of the Government of Burma in return for such light dues as may be collected by the Burma Government.

Legislature (Officers' Salary).—Act No. 3 fixes the salaries of the President and of the Deputy President of the Senate and of the Speaker and of the Deputy Speaker of the House of Representatives. The salary of the President and of the Speaker is fixed at Rs. 2,000 *per mensem* or roughly £1,700 per annum. The salary of the two Deputies is fixed at Rs. 3,000 per annum or roughly £200 per annum. The Act also lays down that the President and Speaker shall not, during their tenure of office, practise any profession or engage in any trade or undertake for remuneration any employment other than the duties of the office of President or Speaker, as the case may be.

Criminal Procedure Code.—Act No. 4 remedies an omission in a previous Act by exempting Members of the Legislature from serving as jurors in the High Court.

Parliamentary Secretaries.—Act No. 5 provides for the appointment and payment of Parliamentary Secretaries to Ministers from among the Members of the Legislature. The duties of these Secretaries are to afford assistance to the Ministers in the performance of their duties in the Chambers and in the disposal of political business. Parliamentary Secretaries receive a salary of Rs. 750 *per mensem* or roughly £640 per annum, and such travelling allowances as the Governor may direct.

Registration.—Act No. 6 removes any doubts as to whether Powers of Attorney executed in British India before separation are valid in British Burma after separation.

VIII. EASTERN COLONIES.

1. CEYLON.

[*Contributed by* J. M. Fonseka, Esq., LL.B., *Legal Draftsman.*]

During the year 1937 twenty-seven Ordinances were enacted, of which the more important were:

Naval Volunteer Force.—Ordinance No. 1 provides for the establishment of a Ceylon Naval Volunteer Force for the naval defence of the Island within its territorial waters. The only departure from the model adopted in other colonies is that special provision is made in s. 7 that every member of the force must be a British subject between the ages of eighteen and fifty "domiciled in Ceylon or resident in Ceylon for a period of not less than twelve months in the eighteen months next preceding the date of enrolment in the Force."

Fauna and Flora.—Ordinance No. 2 makes provision for the protection of the indigenous fauna and flora of Ceylon and gives effect to the recommendations of a special committee appointed to examine and report on the provisions of the International Convention for the protection of Fauna and Flora, signed at London on November 8, 1933 (Cmd. 5280).

Part I deals with the constitution and administration of National Reserves and Sanctuaries. Only Crown land can be proclaimed as a National Reserve, but private land can be included within the limits of an area proclaimed as a Sanctuary. National Reserves are of three kinds: Strict Natural Reserves, National Parks and Intermediate Zones. All fauna and flora are absolutely protected in a Strict Natural Reserve which can be entered only for the purpose of scientific research. Members of the public are entitled to enter a National Park on permits for purposes of observation and study. Hunting is allowed in an Intermediate Zone subject to conditions and restrictions prescribed by regulations. The Ordinance is a comprehensive code and contains elaborate provisions for the protection of tuskers, elephants, buffaloes, deer, fowl, birds, beasts, reptiles, and the rare indigenous orchids of Ceylon. Shooting from moving or stationary vehicles or with the aid of artificial lights is absolutely prohibited.

Resealing of Probates.—Ordinance No. 3 repeals the older Ordinance (No. 7 of 1921) and makes provision for the resealing in Ceylon of probates granted by British courts.

Reciprocal Enforcement of Judgments.—Ordinance No. 4 replaces Ordinance No. 41 of 1921 in order to make new provision for the reciprocal enforcement of judgments in Ceylon. The Ordinance was found to be necessary in consequence of the enactment of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, of the Imperial Parliament and the application of Part I of that Act to Ceylon by the Reciprocal Enforcement of Judgments (General Application to His Majesty's Dominions) Order in Council, 1933.

Registered Stock and Securities.—Ordinance No. 7 makes provision for the issue of registered stock, Government promissory notes and bearer bonds in Ceylon for the purpose of raising money by way of loan for purposes authorized by law.

Employment of Females in Mines.—Ordinance No. 13 prohibits the employment of females on underground work in mines and gives effect to the

draft Convention adopted by the General Conference of the International Labour Organization on June 21, 1935.

Revised Edition of the Legislative Enactments.—Ordinance No. 19 makes provision for the preparation and publication of a revised edition of the legislative enactments. The object of this Ordinance is to enable a revised edition to be prepared on the Chapter and Title basis as it has been decided that the chronological arrangement should be abandoned.

Food Control.—Ordinance No. 22 makes provision for the regulation and control of the distribution, transport and supply of food within the Island, and empowers the Minister for Labour, Industry and Commerce to make emergency orders which have immediate effect but have to be submitted to the State Council for approval and eventually to the Governor for ratification.

2. HONG KONG.

[*Contributed by* J. A. FRASER, ESQ., M.C.]

Ordinances passed—28.

Telecommunication.—The power to stop private telegraphic and radio messages which may endanger the security of the State or offend against law, public order or decency was reserved by the parties to the Madrid Telecommunication Convention of 1926. The Telecommunication Amendment Ordinance (No. 1) adds certain of these grounds not expressly set out in the principal Ordinance (No. 18 of 1936).

Public Officers.—The Hong Kong Government Service (Levy on Salaries) Ordinance (No. 2), which replaces the corresponding 1936 Ordinance, reduces the percentage deductions which, owing to financial stringency, it had been found necessary to impose on the salaries of certain Government officers, empowers the legislature by resolution to continue, reduce or abandon the deductions during the second half of the year, and in addition makes provision for the rate of conversion into dollars of sterling salaries. On removal of the levy at the end of the year this provision was continued by the Sterling Salaries Conversion Ordinance (No. 24), which repeals No. 2.

The payment of death gratuities is extended to the representatives of all officers who die after being confirmed in the Government service, by the Pensions Amendment Ordinance (No. 3) which removes a former restriction requiring five years' continuous service in a pensionable post immediately before the death.

Certain titular reforms are set out in the Schedule to the Public Officers (Changes of Style) Ordinance (No. 25), which facilitates changes in the nomenclature of public officers, offices and departments as used in any enactment, contract or similar document, by providing that such changes may be made by an amendment of the Schedule instead of, as formerly, by special Ordinance.

Public Order.—The Watchmen Amendment Ordinance (No. 4) confers expressly on the Governor in Council a power previously only implied in the principal Ordinance (No. 6 of 1928) to regulate the duties of and impose obligations on watchmen.

The Deportation (British Subjects) Amendment Ordinance (No. 5) amends the principal Ordinance (No. 16 of 1936) by adding to the list of persons deemed to belong to the Colony British subjects born of parents ordinarily resident in the Colony, defining more clearly the period of

residence in relation to immigrant British subjects and reducing the period from seven to two years and, where a judge has made a report, providing for the service on a deportee, with a deportation order, of the findings of fact and conclusions of law stated in the report.

The Magistrates Amendment Ordinance (No. 20) adds offences against the Dangerous Drugs Ordinance (No. 35 of 1935) to the list of charges for which bail lies in the discretion of a magistrate and is not granted as of right.

The powers of military and naval guards and naval police are extended by the Naval Establishments Police (No. 19) and Stonecutters Island (No. 13) Amendment Ordinances, to enable them to exercise their functions in the vicinity of but outside the areas in which they are stationed and to convey offenders to a police station or a magistrate's court.

Advertisements.—The Advertisements Regulation Amendment Ordinance (No. 6) enables the Government by regulations to control and provide for the licensing of street and sky signs and in this connexion to prescribe fees.

Public Health.—The Public Health (Sanitation) Amendment Ordinance (No. 7) provides for certain administrative changes relating to inspectors appointed for malarial and other special purposes.

Pharmacy and Poisons.—Ordinance No. 8 repeals the Pharmacy and Poisons Ordinance (No. 9 of 1916) and substitutes new provisions based upon the Pharmacy and Poisons Act, 1933 (23 & 24 Geo. V, c. 25).

Currency.—Ordinance No. 9 requires note-issuing banks to exchange the securities they hold in coin or bullion for certificates of indebtedness to the Government, makes the surrender of silver coin and bullion for Hong Kong currency no longer compulsory, and enables holders of British dollars to exchange them for Hong Kong currency before they were demonetized on August 1.

Forestry.—Ordinance No. 11 consolidates the law on the protection of forests, trees and plants, and the powers of forestry officers contained in the Forest Fires Prevention Ordinance, the Crown Lands Preservation Ordinance (Nos. 5 and 6 of 1917), the Plants Ordinance (No. 11 of 1920), the Forest Officers Ordinance (No. 32 of 1923) and the Prohibited Areas Ordinance (No. 12 of 1927), which it repeals, and confers a limited power of search and arrest on forest officers to prevent wood-stealing, prevalent in the more remote parts of the Colony.

Printers and Publishers.—In order to make adequate provision for the payment of fines, damages and costs in libel proceedings, the Printers and Publishers Amendment Ordinance (No. 12) enables the registrar of newspapers in his discretion to demand a cash deposit in addition to the bond required on registration by the principal Ordinance (No. 25 of 1927, as amended by Nos. 1 of 1930 and 3 of 1933).

Motor Spirit.—Ordinance No. 14 makes certain sections of the principal Ordinance (No. 4 of 1930) specially applicable to aircraft, enables the Superintendent of Imports and Exports to control all importations of light oil and slightly amends the provisions dealing with the disposal of light oils seized on the arrest of offenders. It also enables the Governor in Council to make regulations for the purpose of implementing any international agreement for the reciprocal exemption of aircraft from duties on oils used in air traffic.

Law Revision.—It having been found necessary to defer arrangements

for the printing of the new edition of the laws of the Colony, the Ordinances and Regulations of Hong Kong (1937 edition) Amendment Ordinance (No. 15) enables new legislation passed before January 1, 1938, to be included in the new edition.

The Law Revision Ordinance (No. 27) effects certain amendments and incorporations in the first volume of the new edition of the Ordinances of the Colony, for which by Ordinance No. 51 of 1936 legislative sanction is required.

Insurance.—The general effect of the Life Insurance Companies Amendment Ordinance (No. 16) is to bring the principal Ordinance (No. 11 of 1907) more closely into line with the Fire and Marine Insurance Companies Deposit Ordinance (No. 32 of 1917) and s. 81 (2) of the Trustee Ordinance (No. 18 of 1934), so that it might be implemented by regulations giving the registrar of companies similar powers in respect of life insurance companies as he has in respect of fire and marine insurance companies and trust companies, and in particular power to require life insurance companies to make up deficiencies if securities deposited with the registrar fall below the value at which they were originally accepted.

Courts.—The Full Court Amendment Ordinance (No. 17) amends the Full Court Ordinance (No. 8 of 1933) so as to make provision for the constitution of the court in the hearing of appeals under the Hong Kong (Non-domiciled Parties) Divorce Rules, 1936, which require a bench of two judges other than the trial judge, nominated by the Chief Justice and approved by the Lord Chancellor.

Factories.—The Factories and Workshops Ordinance (No. 18) repeals the Factories and Workshops Ordinance (No. 27 of 1932) and substitutes new provisions, transferring the office of Protector of Labour from the Secretary for Chinese Affairs to the Chairman of the Urban Council and vesting the control of factories, workshops and the employment of women, young persons and children in certain industries in the Urban Council; it also revises and consolidates the existing regulations in the form of by-laws. Fourteen years has been fixed as the minimum age for employment in industrial undertakings, and the period during which women and young persons may not be employed during the night in ordinary circumstances increased to eleven hours, thus giving effect more fully to the International Labour Convention adopted at Washington on November 28, 1919, fixing the minimum age for admission of children to industrial employment, and regulating the night work of women and young persons employed in industry.

Reclamations.—The Public Reclamations (Validation and Clauses) Ordinance (No. 40 of 1936) provides that the provisions of Part II of that Ordinance (relating to notification, the hearing of objections, compensation, etc.) shall be deemed incorporated, unless expressly varied or excepted, in any future Ordinance authorizing reclamation or works of a public nature on Crown foreshore and sea-bed, provisionally and subject to the definitive approval of the Governor in Council. The Stores Pier (North Point) and Additional Pipe Lines Ordinance (No. 21) gives such provisional authorization in the case of certain undertakings described in the Schedule.

Merchant Shipping.—Ordinance No. 22 makes certain minor amendments to the principal Ordinance (No. 10 of 1899), giving effect to suggestions by the Board of Trade in consequence of the Merchant Shipping (No. 2) Amendment Ordinance (No. 25 of 1934).

Interpretation.—Ordinance No. 26 amends the definition of "New Kowloon," "Treasurer," "Health Officer," "United Kingdom," etc., in the principal Ordinance (No. 31 of 1911) to accord with legislation passed since that year, and re-enacts in general form certain provisions formerly contained in special Ordinances for the submission of regulations to and their amendment by the Legislative Council as soon as possible after the making of the regulations.

3. STRAITS SETTLEMENTS.

[*Contributed by* DR. A. DE MELLO.]

Ordinances passed—51.

Children.—Many children aged between 14 and 16 years are employed in the Colony, particularly as performers in Chinese theatrical troupes. Their conditions of recruitment, training and labour have been deemed to require strict supervision, and, with this end in view, the first of these new Ordinances, No. 21, amends the principal Ordinance (c. 28),[1] passed in 1927, by substituting (s. 2) a new definition of "child," which is hereafter declared to mean "in the case of a person employed or engaged for, or in connexion with, any public entertainment, a person under the age of 16, and, in any other case, under the age of 14 years." Ss. 11 and 12 A. empower the Protector of Chinese and Controller of Labour to cancel a licence and to search, and enlarge their powers to refuse, in the case of a child not under proper guardianship, a licence to take part in a public entertainment.

The second Ordinance (No. 46) establishes remand-houses for children and young persons (boys)[2] who come into the hands of the police or before the courts on criminal charges.

Common Gaming Houses.—No. 37 amends the principal Ordinance (c. 30), in imitation of the Betting and Lotteries Act, 1934, of England, by prohibiting competitions in which prizes are offered for the forecast of results of future events, *e.g.* horse races.

Prevention of Corruption.—No. 41, based on the English Statutes[3] and the Secret Commissions Act, 1905, of Australia, punishes bribery and secret commissions in public or private business. Excellent in conception, the measure has been criticized as likely to be Utopian in practice.

Court of Criminal Appeal.—The powers of this Court,[4] at the hearing of an appeal from a conviction by a judge and jury, were hitherto limited to (*a*) quashing the conviction, (*b*) dismissing the appeal, (*c*) altering the sentence, or (*d*) substituting a verdict of "guilty" of another offence warranted by the same facts (*e.g.* of "manslaughter," for that of "murder"). It had no power to order a re-trial except in the rare case

[1] The references "c. . . ." are to the Revised Edition (1936) of "the Laws of the Straits Settlements," where each of the principal Ordinances is designated as "Chapter" followed by a distinctive serial number (*vide* Review of Legislation, p. 147, in *Journal*, Third Series, Vol. xix).

[2] Girls arrested on criminal charges have, up to the present, fortunately been so rare and so few in number that it has not been deemed necessary to legislate specifically for them.

[3] 31 Eliz. c. 6; Public Bodies (Corrupt Practices Act), 1889; Prevention of Corruption Acts, 1906 and 1916; Merchant Shipping Act, 1894.

[4] Established on September 1, 1934, in pursuance of the principal Ordinance (c. 11) which was passed in 1931, on the basis of the Criminal Appeal Act, 1907, of England.

of want of jurisdiction,[1] or such other grave irregularity. Errors in the trial such as misdirection or misreception of evidence entailed only a quashing of the conviction, although the Court may not have been satisfied that " no substantial miscarriage of justice had actually occurred." This lacuna in the law had been repeatedly remarked upon by the Court of Criminal Appeal in England [2] and several recent cases before the local Court of Criminal Appeal [3] had revealed the imperative necessity of amending the law, as has now been done by the modification by No. 9 of s. 6 (2) of the principal Ordinance, and thus preventing the injustice arising from a guilty person escaping punishment.

Aliens.—No. 12 amends the principal Ordinance (c. 91) by providing means, in these times of international discord, of (*a*) more effective control over the movements of aliens, and (*b*) more accurate information as to their whereabouts.

Births and Deaths.—No. 34 repeals and re-enacts with considerable changes, the principal Ordinance (c. 89) which had been passed as far back as 1878, and which, with the march of time, had been found inadequate and incomplete. The principal modifications are those that provide for : (i) the appointment of one Registrar-General for the entire Colony, with subordinate registrars for the separate Settlements (s. 3), thus preventing the overlapping of the jurisdictions of the registrars appointed by the Government and of those appointed by the Municipal Commissioners for local areas ; (ii) registration of still-births (s. 12), thus preventing concealment of abortions and infanticide ; (iii) closing of the registers to the public (s. 7) and prescribing that searches are now to be conducted by the officials of the Registry—thus preventing both mutilation of the registers, and, at the same time, traffic in certified extracts ; (iv) registration of the newly-born child's surname, or, in the case of an illegitimate child, of its mother's name (s. 10) ; (v) registration of its personal name without fee within 12 months of its birth, and at a small fee, after 12 months, but within 7 years, of the birth. After this latter period, no application to register a personal name is to be entertained (s. 11), and the registrar may also refuse to issue a certified extract relative to a birth registered, if the personal name of the child has not been duly entered in the register (s. 23 (3) (*c*)). Minor changes aim at securing greater safety for the records, improving the form of the registers, and recording births that occur on board ships within a registration area.

Pharmacists.—No. 16 amends, in accordance with the suggestions of the Pharmacy Board, the principal Ordinance (c. 68). The most noteworthy change is that the terms " pharmacy " and " dispensary " used in connexion with a business (whether owned by an individual or a body corporate) create a presumption that a duly registered pharmacist is employed therein.

United Kingdom Patents.—Owing to the difficulties encountered in the operation of the old Inventions Ordinance (c. 158) passed in 1871, the Government [4] decided that, in future, only patents issued in Great Britain should be registrable in the Colony, and that local grants of exclusive

[1] See *Crane* v. *Director of Public Prosecutions*, [1921] L.R., 2 A.C. 299.

[2] See *R.* v. *Dyson*, [1908] 2 K.B. 458 ; *R.* v. *Dibble*, (1908) 2 J.P. 498 ; *R.* v. *Colclough*, [1909] 2 Cr. App. Rep. 84.

[3] *R.* v. *Vincent Banka and Teng Ko*, (1936) S.S.L.R. 16 ; *R.* v. *Chhing Yu*, (1936) S.S.L.R. 129 ; and *R.* v. *Teh Peng Kim*, (1937) S.S.L.R. 139.

[4] See ch. 60 of this Report (2 vols.) of the Commission appointed by H.E. the Governor to inquire into and report on the Trade of the Colony, 1933–4.

privileges should cease. The new Ordinance No. 2 gives effect to this decision.

Schools.—Practical experience of the principal Ordinance (c. 139, passed in 1927) had revealed defects, particularly in the control of private schools, which the present amending Ordinance, No. 4, seeks to remedy. In order to check the increase in the number of ephemeral private schools, the measure enhances the powers of the Director of Education for the surveillance of: (*a*) the suitability of school buildings (s. 8); (*b*) supervisors and committees of management, as well as the teachers (ss. 11 and 16). The Director may refuse registration if he considers that adequate educational facilities already exist, or, alternatively, he may require security in cash or by bond; (*c*) schools and their staff who have contravened the Ordinance; (*d*) subscriptions and collections of money (s. 27).

Women and Girls.—No. 13 amends the principal Ordinance (c. 33) by raising, on the basis of the Criminal Law Amendment Act, 1885, of England, and most extradition treaties, from 15 to 16 years the minimum age below which an unmarried girl cannot lawfully consent to sexual intercourse (s. 4).[1] It is also now made an offence (s. 5 A.) to import women or girls into the Colony by any false pretences whatsoever; and the victims, whether brought in for purposes of prostitution or not, are granted special protection (s. 13). The new Ordinance visits the offence of living on the earnings of a prostitute with an identical penalty (maximum of 2 years' rigorous imprisonment) in the case of both a male and a female offender, instead of differentiating, as hitherto, to the advantage of the latter. Powers of search are conferred in cases where reasonable cause exists that an offence under the Ordinance has been, or is being, committed.

4. FEDERATED MALAY STATES.

[*Contributed by* Dr. A. de Mello.]

Enactments passed—25.

Air Navigation.—In repealing the earlier enactment passed in 1929 (c. 166),[2] this new measure, No. 8, provides a rapid method of assimilating the legislation of the Federated Malay States on aerial navigation with that of the adjacent Colony of the Straits Settlements, by means of a simple notification in the *Government Gazette* incorporating the latter (subject to such amendments as local requirements may render necessary). As the laws, regulations, rules and directions relative to air-navigation are numerous, complex and constantly in course of revision and amendment, and as the ultimate basis of them all is to be found in the International Conventions, to which the Federated Malay States have subscribed, it has been considered desirable that all new legislation on the subject should be applied throughout British Malaya simultaneously.

[1] The offence of "rape" is, however, committed when a man has sexual intercourse with a woman "with or without her consent when she is *under* 14 *years* of age" (s. 375 Penal Code); but this latter provision, it may be noted, also contains an *Exception*, to the effect that "sexual intercourse by a man with his own wife who is not *under* 13 *years* of age, is *not* rape."

[2] The Revised Edition, 1935, of "the Laws of the Federated Malay States" (see Review of Legislation in *Journal*, vol. xix, p. 147, and vol. xx, p. 156) arranges the various Enactments in groups and serial order as "Chapters," in the same manner as the Revised Edition of "the Laws of the Straits Settlements."

Civil Law.—Enactment No. 3 is notable in the history of the country in laying down (s. 2) for the first time that the courts shall follow the Common law of England, and the rules of Equity as administered in England, save where otherwise provided by written law. Thus the foundation is laid for further assimilation to the English law by legislation. Other provisions of the new Enactment are (*a*) ss. 3 to 6, borrowed from the Law Reform (Married Women and Tortfeasors) Act, 1935, and the Civil Law Ordinance of the Straits Settlements (c. 42), and (*b*) s. 7, which reproduces the rule against accumulations originally enacted in England by the Thelusson Act, 1800.

Road Traffic.—Founded on the English statutes,[1] this comprehensive Enactment, No. 17, divided in five parts, consolidates and supersedes the provisions of four prior enactments [2] on the subject.

Part I deals generally with registration, licensing and regulation of motor vehicles and their drivers, and provides also for implementing the provisions of the Taxation of Foreign Motor-Vehicles Convention, 1931, as soon as it shall have been applied to the Federated Malay States: Part II deals with insurance against third-party risks: Part III regulates the use of highways; Part IV creates a Transport Board to whom is entrusted the control of public service vehicles and their personnel, and of goods vehicles; while Part V contains general provisions dealing with legal proceedings, penalties, etc.

The public had been invited by the Legal Adviser to send in their comments and criticisms on the Bill as originally drafted: and the Enactment, as passed and now sold, contains a Table of Contents and also a valuable alphabetical index—a boon to the public and the legal practitioner.

5. ADEN

[*Contributed by* A. V. CAMERON, ESQ., *Legal Adviser.*]

The most important Ordinances enacted in the new Colony of Aden for the initial period from April 1, 1937, to the end of that year, were as follows:

General Clauses Acts (Adaptation).—Ordinance No. 1 lays down the various authorities to exercise the powers created in the Indian and Bombay Acts which were maintained in force by the Aden Colony Order, 1936.

This Ordinance is amended by No. 24 to the effect that, subject to enactments in force and local custom, the rules of the English Common Law shall form the background of the law of the Colony.

Interpretation and General Clauses.—No. 2 is an interpretation Ordinance on the ordinary Colonial model.

Supreme Court.—No. 3 establishes the Supreme Court of the Colony, with a single judge.

Income Tax.—No. 4 is closely based on the Indian Income Tax Acts, 1922–34.

Civil Courts.—No. 5 is closely based on the Indian Code of Civil Procedure, and reproduces its more important provisions. About half of the Code has been reproduced as Rules under this Ordinance.

[1] The Roads Act, 1920; the Road Traffic Acts, 1930 and 1934; and the Third Parties (Rights against Insurers) Act, 1930.

[2] The Motor-Vehicles Enactment (c. 168); the Transport Licensing Enactment (c. 169); and certain sections of the Minor Offences Enactment (c. 46) and of the Vehicles Enactment (c. 167).

Civil Prisons.—No. 6 is based on the Bombay Jails Acts, 1874–82, formerly in force.

Pensions.—No. 9 regulates pensions for senior officers, on the ordinary Colonial model.

Criminal Courts.—No. 10 is closely based on the Indian Code of Criminal Procedure, a pledge having been given that no sweeping changes from Indian law would be made. There is trial by jury for all committed cases, and ancillary provision for procedure on confirmation of death sentences and appeals against the death sentence or imprisonment for over six months, by and to the High Court of Bombay, as laid down by the Aden Colony Order, 1936. A new section, s. 524, governs proceedings under Colony Ordinances, as opposed to the Indian Penal Code.

Petroleum.—No. 11 closely follows the repealed Indian Petroleum Act. Rules also have been enacted on the same model.

Mineral Oil Mining.—No. 15 forbids mineral oil mining in the Colony save under licence. This Ordinance has been extended to the Aden Protectorate under the Aden Protectorate Order, 1937, as regards prospecting by non-natives of the Protectorate.

Court Fees.—No. 17 is based on the Indian Court Fees Acts, without substantial variation, save where Bombay variations were already in force in Aden.

Limitation.—No. 18 is based on the Indian Limitation Acts without variation of substance.

Stamp.—No. 19 follows the Indian Stamp Acts, save in so far as Bombay variations were already in force in Aden.

Guardians and Wards.—No. 20 is based on the Indian Guardians and Wards Acts, 1890–1929, but gives by s. 13 a power to the Court to disregard the personal law where this is clearly for the minor's benefit. There is no special Court of Wards in Aden.

Excise.—No. 23 is based on the Bombay Abkari Act, 1878, recast with schedules of prohibited and excisable articles in lieu of earlier miscellaneous notifications.

6. MAURITIUS.

[*Contributed by* C. A. Hooper, Esq., *Procureur-General.*]

Fifty-one Ordinances were passed by the Council of Government and assented to by the Governor between January 15 and December 20, 1937. The majority of these Ordinances deals with matters of domestic concern amongst which the following are of considerable importance :

Fisheries.—Ordinance No. 11 brings up to date the Fisheries Laws of the Colony in a consolidated form.

Game Snares.—Ordinance No. 14 provides for the protection of human beings against the danger arising from the presence of game snares and wells over the countryside.

Distillery.—Ordinance No. 36 brings up to date the Distillery Laws of the Colony in a consolidated form.

Savings Bank.—Ordinance No. 5 amends the Savings Bank Ordinance, 1936, and provides for the transfer of deposits from the Post Office Savings Banks of the British Empire to the local Government Savings Bank and *vice versa.*

Agricultural Bank.—Ordinance No. 15 provides for the raising of a loan of Rs. 2,000,000 by the Colonial Government for the purpose of financing the newly created Mauritius Agricultural Bank.

Sugar Export.—Ordinance No. 39 provides for the control of the export of sugar from the Colony in line with the International Sugar Agreement of 1937.

Dockers' Protection.—Ordinance No. 8 provides for the protection of dockers from accidents whilst unloading ships in line with the International Labour Convention of 1932.

Workmen's Compensation.—Ordinance No. 32 amends the Workmen's Compensation Ordinance, 1931, and provides for the grant of compensation to workmen for occupational diseases.

Safety at Sea.—Ordinance No. 38 provides for the proper marking of deck lines and load lines on ships, to secure a greater margin of safety for life at sea.

All these Ordinances have in view the social and economical progress of the population of this Colony and attempt to work to that end.

7. SEYCHELLES.

[*Contributed by* M. C. NAGEON DE LESTANG, ESQ., LL.B. (Lond.), *Legal Adviser and Crown Prosecutor.*]

Twenty-three Ordinances were enacted during the year 1937, the most important of which relate to the following subjects :

Banking.—Ordinance No. 1 establishes an Agricultural Bank for the Colony for the purpose of granting long-term loans for agricultural purposes on the primary mortgage of landed property. Loans may only be made (1) for the purchase or lease of agricultural land, its development and improvement and the preparation of produce for market ; (2) for purposes incidental, accessory or ancillary to any of the above purposes ; and (3) for the liquidation of debts which impede the proper maintenance, development and improvement of agricultural land. It is hoped that the granting of loans at a lower rate of interest to planters who are either paying high rates of interest to their creditors or unable properly to administer their estates owing to the fall in prices of produce will be of considerable help and benefit to the Colony in general.

Ordinance No. 9 empowers the Government to raise a loan of £40,000 to provide funds necessary to carry on the business of the Agricultural Bank.

Export of Produce.—Ordinance No. 2 is designed to control the export of produce from the Colony. It provides for the inspection or inspection and grading of any produce to which the Ordinance may apply before it is exported as a safeguard against the export of unsound produce which if allowed would result in considerable damage to the Colony's trade.

Judicial.—Ordinance No. 3 makes provision for the defence of poor prisoners and empowers the Supreme Court at its discretion to allot Counsel to them.

Labour.—Ordinance No. 15 is designed to control and supervise by means of a Board and inspectors the conditions concerning the employment of labour in factories and machinery in the Colony.

Liquor.—Ordinance No. 22 removes certain restrictions placed on the planting of sugar-cane and the manufacture of the wholesome drink made from it and locally called " bacca." It is hoped that if this measure succeeds in stamping out the illicit manufacture and consumption of a popular noxious drink called " la puree " which is derived from the fer-

mentation of all kinds of vegetable refuse, an improvement in the general health of the community might result.

8. STATE OF NORTH BORNEO.

[*Contributed by* J. S. ABERNETHY, ESQ., *Legal Adviser.*]

Ten Ordinances were enacted during 1937.

Statute Law Revision.—Ordinance No. 1, Repeal of Obsolete Laws, repeals a number of Ordinances which have expired, been superseded or become obsolete from disuse.

Ordinance No. 3, Revised Edition of the Laws (Annual Supplements), gives to the Chief Justice similar revisionary powers in the preparation of the Annual Law Supplements to those conferred on the Commissioner by the Revised Edition of the Laws Ordinance, 1935.

Native Administration.—Ordinance No. 2 replaces the Village Administration Ordinance, 1913, and provides for the Governor declaring Native Authorities, the amplification of the powers of chiefs and headmen, a clearer definition of the powers of native courts and the extension of their jurisdiction as well as incorporating the provisions of the Mohammedan Customs Ordinance, 1914.

Immigration.—Ordinance No. 4 gives statutory powers to the Government to prevent the immigration of certain undesirable classes of persons into the State.

Labour.—Ordinance No. 5 supplements the Labour Ordinance, 1936, by making special provisions for labourers recruited from the Netherlands Indies and amends the definition of " coolie broker " in order to bring North Borneo legislation into line with the provisions of Art. 12 of the Draft Recruiting of Indigenous Workers Convention, 1936, adopted by the International Labour Conference at their twentieth session at Geneva on June 4, 1936.

Poll Tax.—Ordinance No. 6 increases the rate of Poll Tax.

Liquor.—Ordinance No. 7 removes the excise duty and taxes on native liquors.

Emergency Powers.—Ordinance No. 8 repeals the Emergency Powers Ordinance, 1933, and provides the Governor with similar powers in case of emergency to those given to Governors of other British Dependencies.

Patents.—Ordinance No. 9, Registration of United Kingdom Patents, replaces the Patents Ordinance, 1908, and provides that for the future only patents issued in the United Kingdom shall be capable of registration in the State.

Extradition.—Ordinance No. 10 legalizes and clarifies the procedure for surrendering fugitive offenders to foreign States not having reciprocal extradition arrangements with the State of North Borneo.

9. SARAWAK.

[*Contributed by* T. STIRLING BOYD, ESQ., *Chief Justice.*]

Twenty-seven Orders were enacted during 1937, most of them making minor amendments of law.

The following new Orders were enacted:

Cruelty to Animals.—This Order is based on the Ordinance of the Straits Settlements on the same subject. Cruelty to animals in general

is made an offence and, in addition, certain specific offences are defined. Power is taken to arrest without warrant any person guilty of an offence under the Order and injured or diseased animals may be destroyed. A wide power is taken to make rules, and rules providing for the proper care of animals in transit by sea have already been promulgated.

Monopolies.—It had long been the practice of Government to prohibit, except under licence, pawnbroking and gambling establishments, the import, export, manufacture and sale of arrack (Chinese rice spirit), and the manufacture of alcoholic liquors, and statutory authority was given to this by the Monopolies Order. The manufacture of ice for sale and the manufacture of matches were added to the list. Natives, who manufacture for their own use or that of their families any of the alcoholic beverages commonly made by natives, are exempted.

Missionary Societies.—For convenience in administration, the Bishop of Labuan and Sarawak, the Prefect Apostolic of the Roman Catholic Church in Sarawak and the Secretary in Sarawak of the Borneo Evangelical Mission were constituted bodies corporate under those corporate names. Two foreign Missionary corporations, the Secretary of the Methodist Episcopal Building and Location Board (a body corporate created by Ordinance of the Straits Settlements) and the General Conference Corporation of Seventh-day Adventists (a non-profit corporation incorporated under the laws of the United States of America) were recognized for the purposes of the Order, which vests in each corporation the property belonging to the respective Missions which before the date of the Order was registered in various different names. The Order provides, *inter alia*, that dispositions of property by each corporation must be made in the corporate name.

Rubber Regulation.—In order more effectively to carry out the obligations of the State under the International Agreement to Regulate Production and Export of Rubber, it was decided in 1936 that a system of individual assessment (known as the "coupon system") should be introduced by which the amount an owner of rubber trees may produce and export is based on a proportion of the productive capacity of his rubber trees. For this purpose two preliminary Orders were enacted, the Rubber Regulation (Preliminary Measures) Order and the Rubber Regulation (Assessment) Order which gave power to appoint certain officers and to carry out certain work which was necessary to inaugurate the new scheme. These Orders were repealed and re-enacted with amendments by the Rubber Regulation Order which provides for the introduction of the system of individual assessment on February 1, 1938.

The most important amendments to the statute law are shortly described below.

Arms and Explosives.—It was provided that a permit was required from the Chief Secretary for the import of arms, and for the purchase in Sarawak of a gun, rifle or pistol from a licensed dealer.

Companies.—It was provided that every insurance company incorporated outside Sarawak which maintains an office or carries on business in Sarawak through agents must be registered, a fee of $100 being payable for the registration. Certain changes were also made in the fees payable on the registration of companies in Sarawak.

Contagious Diseases.—An Order of 1924 providing for the registration and inspection of prostitutes and the control of brothels was repealed.

Code of Criminal Procedure.—Power was taken to try subjects of the Rajah for offences whether committed within or without the State. A new provision was added giving courts power, with the approval of the Supreme Court, to send youthful offenders to an industrial or reformatory school outside Sarawak. The opportunity was taken of making various minor corrections in the Code.

Medical.—Power was taken to strike off the Medical Register the names of certain persons who were not properly qualified. The exclusive right of importing and exporting hypodermic syringes vested in the Principal Medical Officer was made subject to the exception that a person arriving in Sarawak may import and subsequently export not more than two hypodermic syringes for his own use subject to his applying to the Principal Medical Officer for a licence within seven days. In addition, in pursuance of Art. 8 of the International Opium Convention of 1925, a long list of preparations containing opium and other deleterious substances were exempted from the provision vesting the exclusive right of importing and exporting such deleterious substances in the Principal Medical Officer.

Municipal.—In addition to some minor amendments it was provided that no action should be taken by any Municipal Board unless approved by the Chief Secretary, and power was taken to enable the Chief Secretary upon a representation made by the Resident, the Chief Health Officer, the Director of Public Works or any member of a Municipal Board to over-rule any recommendation of a Board and to direct the municipal Officer to take such action as the Chief Secretary considers necessary.

IX. WEST AFRICA.

1. GAMBIA.

[*Contributed by* A. G. B. Manson, Esq., *Legal Adviser.*]

Ordinances passed—16.

The Ordinances which call for special comment are :

Safety of Workers.—The Regulation of Docks Ordinance, No. 36, empowers the Governor in Council to make regulations for the safety of persons employed in loading, unloading, moving and handling goods or produce in, on or at any wharf or quay, and in loading, unloading and coaling any ship in any dock or harbour.

Criminal Code.—Ordinance No. 7 makes a number of amendments to the Criminal Code, including provisions relating to seditious conspiracy, perjury, forgery and counterfeit coin, and the criminal responsibility of persons committing offences when under the influence of drink or drugs.

The sections dealing with forgery and counterfeit coin give effect to the provisions of the International Convention for the Suppression of Counterfeiting Currency, to which the Gambia is a party.

Juvenile Offenders.—The Criminal Procedure Code (Amendment) Ordinance, No. 8, makes provision for the trial of young persons, that is, persons under the age of sixteen, and provides for the summary trial of all offences, except homicide, with which a young person is charged unless

the court thinks it desirable to commit him for trial. The court is also empowered to require the attendance of the parent or guardian of a young person when the latter is charged with any offence ; to order the parent or guardian to pay any fine, compensation or costs instead of the young person, and to commit a young person to the care of a fit person whether a relative or not. These provisions are based on sections in the Children and Young Persons Act, 1933.

The Ordinance also contains amendments relating to search warrants, the taking of evidence on commission and the conditional binding over of witnesses.

Stamps.—Ordinance No. 14 adopts the definitions of " Conveyance on Sale," " Mortgage " and " Equitable Mortgage " in the English Stamp Act, 1891.

2. GOLD COAST.

[*Contributed by* L. E. V. McCarthy, Esq., *Solicitor-General.*]

During the year 1937, 34 Ordinances were passed, of which 22 were amending Ordinances. The following may be briefly described :

Immigration Restriction.—No. 1 brings within the scope of the principal Ordinance natives of West Africa other than those who belong to the Gold Coast.

Cocoa Industry (Regulation).—No. 14 implements recommendations made by the Agricultural Advisers to the Secretary of State for the purpose of improving the standard of cocoa exported from the Gold Coast. Transactions in cocoa which is not thoroughly dry are forbidden. Cocoa may not be exported except in bags bearing an official seal and grade-mark. Provision is made for the inspection of cocoa and premises containing cocoa. The Governor may appoint for any area an Advisory Committee for the purposes of the Ordinance. Regulations may be made prescribing the standards of quality of cocoa intended for export and the grade-marks to be used for such standards, also for other specified and general purposes.

Co-operative Societies.—No. 15, which replaces the Co-operative Societies Ordinance of 1931, was drafted in the light of experience gained locally and introduces provisions taken from similar legislation in Nigeria and Tanganyika. Amongst other innovations, provision is made : (*a*) for the recognition of secondary bodies, that is, of societies formed by defederation of primary societies ; (*b*) for marketing-contracts ; (*c*) enabling societies to pay bonuses on produce as well as dividends on share capital.

Kumasi Public Health Board.—No. 18 replaces the Kumasi Public Health Board Ordinance of 1925.

Plants Protection.—No. 30 re-enacts with such modifications and additions as experience and research have shown to be advisable those provisions of the repealed Pests Ordinance relating to the inspection of plants and the treatment of plant diseases. The spread of swollen-shoot in cocoa made legislative action an urgent necessity. The Ordinance gives the Government powers *inter alia* with regard to enforcing the removal of dead or diseased trees, and providing for the planting of wind breaks and shade-plants. The inspector gives his expert advice to the farmer ; if the latter neglects to follow it, the necessary measures will be taken at the farmer's expense.

3. NIGERIA.

[*Contributed by* E. G. Unsworth, Esq., *Crown Counsel.*]

Ordinances passed—41.

The following is a summary of the more important enactments of general interest during the year 1937:

Sleeping Sickness.—Ordinance No. 1 applies to the Northern Provinces, including those parts of the Cameroons under British Mandate which are administered with the Northern Provinces, and makes it compulsory for any person residing in those Provinces to submit himself for medical examination for sleeping sickness. If he proves to be infected he is compelled to submit himself to the appropriate treatment. S. 5 gives the Governor power to declare areas to be sleeping sickness areas and s. 10 gives him power to declare the whole or any part of such an area to be a restricted area. Residence in a restricted area is prohibited and entry therein only permitted to persons holding permits.

Tin Production and Export.—Ordinance No. 2 makes the provisions of the Tin (Production and Export Restriction) Ordinance, 1931, effective until December 1, 1941.

Taxation.—Ordinance No. 4 repeals the Income Tax (Colony) Ordinance, 1927, but re-enacts many of its provisions. The Ordinance makes the Treasurer the Tax Authority for the municipal area of Lagos in place of the Commissioner of the Colony. (Later in the year the Financial Officers Change of Titles Ordinance, 1937, substituted "the Financial Secretary" for "the Treasurer".) Subject to a number of exemptions, which include old age and infirmity, it provides that every male resident in Lagos shall pay a tax of 5*s.* per annum. The Ordinance authorizes the Governor to appoint a Board of Commissioners consisting of three non-officials who shall hear appeals against assessments and prescribes the procedure to be followed in prosecuting such appeals.

Motor Traffic.—Ordinance No. 9 gives the principal licensing authority powers of control over other licensing authorities. S. 3 amends the principal Ordinance by conferring power on courts to suspend or endorse offenders' licences for first or second offences for exceeding the speed limit or using unsafe vehicles. The same section provides that in cases where commercial vehicles are in the custody, or under the control, of any person other than the owner that person shall be liable in place of the owner. S. 5 confers power on the Governor in Council to make regulations dealing with various subjects. By exercising these powers effect will be given to the International Motor Vehicle Conventions of 1926 and 1931 to which Nigeria is a party.

Criminal Code.—Ordinance No. 10 amends the Criminal Code by making it an offence to make unlawful inquiries with the object of making counterfeit coin or of obtaining any tool or instrument which is adapted to make the resemblance of either side of a current coin, or mark the edge of any disc or coin with a design similar to that on a current coin or to cut round blanks out of metal or other substance. S. 5 makes it a felony to be in possession of ten or more pieces of counterfeit coin without lawful authority.

Ordinance No. 36 amends the Criminal Code and invests the Governor with power, after a case has been considered in Council, to make an Order directing that a person be deported to any place whether

within the British Empire or not, but a proviso limits the scope of the section by providing that a native of Nigeria shall not be deported to any place outside Nigeria. S. 4 makes it an offence to take any part in a lottery. Lotteries or sweepstakes organized and controlled by any race club in Nigeria may, however, be exempted from the provisions of the section by the Governor by means of a notice published in the Gazette.

Criminal Procedure.—Ordinance No. 11 makes provision for the disposal of property which has come into the possession of the police in connexion with a criminal charge. S. 3 provides that a person who has been committed for trial shall be furnished, free of charge, with a copy of the depositions before the trial. S. 4 makes reports by the Government Analyst, Assistant Analyst, medical practitioners and the Treasurer receivable as *prima facie* evidence in certain proceedings.

Coroners.—Ordinance No. 12 provides that a person committed for trial by a coroner on a charge of murder or manslaughter shall be furnished with a copy of the depositions free of charge, before the trial.

Boy Scouts.—Ordinance No. 14 makes it an offence for any person, except the Association or any person authorized by the Association, to import or sell Boy Scouts' uniforms or emblems. The prohibition extends to articles and emblems closely resembling those worn by boy scouts.

Goldsmiths.—Ordinance No. 15 provides that in those parts of Nigeria to which the main Ordinance applies, goldsmiths shall keep a record of any jewellery received by them for alteration or re-manufacture and shall state the weight of such jewellery before and after re-manufacture.

Naval Defence.—Ordinance No. 37 makes comprehensive provision for the raising, training and maintaining of a volunteer Defence Force in Nigeria.

Forestry.—Ordinance No. 38 repeals the old Forestry Ordinance. It provides for the constitution, management and control of forest reserves and protected forests and generally provides for the conservation and regeneration of forests in Nigeria.

Native Authorities.—Ordinance No. 39 applies to the Colony excluding the Township of Lagos. In general, it provides the Colony with a system of administration similar to that obtaining in the Protectorate by virtue of the Native Authority Ordinance, 1933 (No. 43 of 1933). The system is modified in certain respects to suit the conditions prevailing in the Colony.

Native Courts.—Ordinance No. 40 applies to the Colony except the Township of Lagos. It provides for the constitution, procedure and control of Native Courts in the Colony in the same manner as the Native Courts Ordinance, 1933 (No. 44 of 1933), established Native Courts in the Protectorate. It provides extensive rights of appeal against decision of these Courts.

4. SIERRA LEONE.

[*Contributed by* I. J. TURBETT, ESQ., *Attorney-General.*]

In 1937, twenty-six Ordinances were placed on the Statute Book. Of these, fourteen either amended or repealed existing measures, two dealt with supply and the remaining ten dealt with matters not hitherto the subject of legislation.

Of the new measures, the following are worthy of mention :

Regulation of Street Trading.—Ordinance No. 3 gives effect to the recommendations of a Committee appointed by Government to consider

the question of regulating and controlling street trading in the City of Freetown. Under the measure, the Governor in Council is empowered, after consultation with the City Council of Freetown, to prohibit the sale or exposure for sale of all goods in any specified street or part of such streets in the Municipal Areas of Freetown, subject to any exceptions which might be contained in the Order. An exemption for hawkers and pedlars from this general prohibition is contained in the Ordinance. A wide rule making power has also been incorporated in the measure in order to deal with various matters connected with such trading.

Carriage of Goods by Road.—Ordinance No. 6 has been enacted in order to control road competition against the Sierra Leone Government Railway. The Railway, in common with railways in other parts of the world, has been suffering from a serious loss of revenue from competition of this nature in certain areas for some years and it is has been found impossible to devise a satisfactory form of control by means of ferry or road tolls or by any alteration in railway rates. The measure has been designed therefore to prohibit the carriage of certain classes of goods and produce along any such roads, with the minimum restriction compatible with the object in view. Certain of these roads and the classes of goods which are prohibited from being carried thereon have been scheduled in the Ordinance and the Governor in Council is given general power to alter this schedule. Certain special classes of goods are in any event exempted from the operation of the Ordinance. Power has also been reserved to permit the carriage of scheduled goods over scheduled roads in special circumstances. Legislation to much the same effect exists already in the Gold Coast Colony and in one or two of the East African Dependencies.

Tonkolili Agreement.—Ordinance No. 7 was designed to ratify and confirm an Agreement made between the Crown Agents for the Colonies on behalf of the Government of Sierra Leone and the Sierra Leone Development Company Limited, with a view to regulating the mining of iron ore and other minerals in the Tonkolili area of the Protectorate.

Tribal Authorities.—Ordinance No. 8 provides for the organization of chiefdom administration, and marks an important stage in the development of the Protectorate. It provides for the government of natives of the Protectorate through their own Chiefs and endeavours to preserve and strengthen the administrative machinery which has been created by the natives themselves and the institutions which have grown out of their own traditions. To a considerable extent, it is an enabling measure, providing as it does wide powers for the issue of orders and by-laws by a Tribal Authority, but at the same time adequate measures are taken to ensure that there shall be no abuse of those powers. Under the measure, Tribal Authorities, to whom the provisions of the Ordinance are applied, will continue to be guided by the District Commissioners, but they will in future have a greater measure of self-government. At the same time no revolutionary innovations have been introduced, for in very many respects the measure merely formulates long-existing practice under native law and custom. The enactment was based to a very considerable extent on Native Administration Ordinances which had been enacted elsewhere in Africa and no special legislative features require individual mention.

Chiefdom Tax.—Ordinance No. 10 is to a considerable extent complementary to the Tribal Authorities Ordinance, 1937, and is therefore an essential part of the scheme whereby it is hoped that Tribal Authorities

will, under guidance, be enabled to achieve a certain measure of local government. The Ordinance provides, in those Chiefdoms in which Native Treasuries have been established, for the imposition of a comprehensive local tax to take the place of any taxes, tributes, customary levies or labour which were formerly received by the Chiefs and other native authorities. The provisions for the assessment, payment and collection of the tax are similar in many respects to those relating to the collection of house tax under Part IV of the Protectorate Ordinance, 1933. The Governor is given a wide discretion to exempt persons from the payment of this tax and an extensive rule making power to carry out the objects of the measure has also been included.

Chiefdom Treasuries.—Ordinance No. 11 has been enacted to provide for the establishment, constitution and management of Chiefdom Treasuries in the Protectorate, and is also another measure of native administration reform. The Ordinance provides for the establishment of a treasury for the reception of chiefdom funds in any chiefdom, or, where it is deemed desirable, in any group of chiefdoms. When such a treasury has been established proper accounts of revenue and expenditure will be kept and all accounts will be submitted to audit. The Tribal Authority will be guided and controlled by a District Commissioner.

Naval Volunteer Force (General Service).—Ordinance No. 23, which is supplementary to the Sierra Leone Naval Volunteer Force Ordinance, 1935, has been enacted in consequence of an Order of His Majesty in Council, entitled " The Sierra Leone Naval Defence Order, 1937," which approved provision being made for the placing at the disposal of His Majesty for general service in the Royal Navy, officers and men of the Sierra Leone Naval Volunteer Force and ships of war maintained by the Colony. This measure now enables the Governor in Council to make provision for all the aforesaid matters and it also provides for training the officers and men of the Force outside the territorial waters of the Colony.

Rural Areas.—Ordinance No. 26 has been introduced in order to make provision for the better administration of the Colony Peninsula with the exception of that portion of the Colony which is included in the Municipal Area of Freetown. Briefly, the measure makes provision for (*a*) the division of the Police and Headquarters Judicial Districts of the Colony into Rural Areas, each Rural Area to be administered by a Rural Commissioner acting under the District Commissioner of the district, and also for the subdivisions of Rural Areas into Urban Divisions ; (*b*) the establishment of Rural Advisory Committees for each Rural Area and the institution of a form of suffrage for the election of members thereto ; (*c*) the appointment and constitution of a Rural Areas Council which shall have power to take all necessary measures for the health, order and good government of the district, and the establishment of a Rural Areas Fund ; (*d*) the imposition of all necessary taxation ; (*e*) the establishment of an Urban Division Fund to provide for special services in Urban Divisions ; and (*f*) the regulation of street trading and the erection of buildings, the establishment and maintenance of cemeteries, water supplies, markets, slaughter-houses, etc., and the various other matters for which it is necessary to provide for the purposes of the efficient administration of a local Government Area. The measure now replaces the Headmen Ordinance, 1924, and abrogates the provisions of the House Tax (Colony) Ordinance, 1924, in respect of the Freetown Police and Headquarters District.

As regards amending and repealing measures, the following may be noted:

Protectorate Courts Jurisdiction.—Ordinance No. 9 is designed to make provision for the better supervision of Native Courts and for the establishment and constitution of Native Appeal Courts. Owing to the multiplicity of minor courts in the Protectorate Chiefdoms, power has been taken in the measure to suppress any such courts which it may be expedient so to do and which can be suppressed without causing hardship to the native communities concerned.

Companies.—Ordinance No. 18 repeals and replaces the Companies Ordinance, 1924, and is designed to bring the law relating to Trading Companies into conformity with recent Imperial legislation and modern Colonial enactments. The law, previously in force, as contained in the Companies Ordinance, 1924, was the law in force in England in 1906. The present measure has been based almost entirely on the Imperial Companies Act of 1929.

Fifty-one subordinate legislative measures were also passed during the year.

X. EAST AFRICA.

1. KENYA.

[*Contributed by* THE HON. H. C. WILLAN, M.C., *Solicitor-General.*]

Forty-two Ordinances were passed during the year 1937. A summary of the more important enactments is given below.

Distress for Rent.—Ordinance No. 1 prescribes the law relating to distress in the Colony. The Ordinance is modelled on the Law of England and embodies provisions contained in Acts of Parliament from 1689 to 1923.

Native Authority.—Ordinance No. 2 makes provision in regard to the powers and duties of native official headmen and local native councils and provides for matters incidental thereto. The Ordinance re-enacts most of the provisions of the Native Authority Ordinance (c. 129 of the Revised Edition). The principal alteration made is the establishment of a fund into which surplus balances of local native councils may be paid for the purpose of investment by trustees.

Kenya Regiment (Territorial Force).—Ordinance No. 4 provides for the establishment of a regiment to be known as the Kenya Regiment (Territorial Force), the main function of which is to train officers, non-commissioned officers and instructors to take their places as such in the event of external aggression.

Kenya Defence Force.—Ordinance No. 5 makes provision for the establishment of a force to be known as the Kenya Defence Force, the principal function of which is to provide military training for all European citizens with a view to defending the Colony in the event of internal disturbance.

Stamp.—Ordinance No. 6 (*a*) makes an alteration to the Kenya law by following closely the provisions of s. 42 of the Finance Act, 1933, (of England); and (*b*) provides for the exemption from stamp duty of instruments used in connexion with the Savings Bank.

Ordinance No. 19 (*a*) provides that, in order to assist inter-territorial

trade, every bill of exchange, cheque or promissory note drawn or made in Uganda or Tanganyika and accepted and paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated in Kenya, and which has previously been duly stamped in Uganda or Tanganyika shall be duly stamped in Kenya; and (*b*) gives discretion to the Revenue Authority to charge a discount of 5 per cent. when making refunds for spoiled or misused stamps, subject to a maximum discount of 10*s.* in respect of any one instrument.

State Railway Provident Fund.—Ordinance No. 7 opens the Kenya and Uganda Railways and Harbours Provident Fund to the pensionable staff of the High Commissioner for Transport.

Passion Fruit.—Ordinance No. 11 regulates and controls the passion fruit industry and provides facilities for the preparation for export and the marketing of the products of passion fruit. Provision is made for the appointment of an agency which shall have the sole right to purchase, prepare and export all passion fruit and its products grown in the Colony.

Income Tax.—Ordinance No. 12 imposes a tax on incomes and regulates the collection thereof.

Trustee.—Ordinance No. 13 provides that powers of attorney given by trustees and executed in the Colony shall be registered within thirty days after execution and that powers executed out of the Colony shall be registered within thirty days of first arrival in the Colony.

Public Trustee.—Ordinance No. 14 provides (*a*) for the grant to the Public Trustee of probate or letters of administration instead of an order to administer; (*b*) for the administration of estates of persons dying outside but leaving assets within the Colony; (*c*) for the Public Trustee to deal with individual property owned by natives who die in native reserves; (*d*) that the Public Trustee may be appointed a sole trustee in cases where by law two trustees are required; and (*e*) that the Public Trustee may act as custodian trustee of any trust.

Evidence (Bankers' Books).—Ordinance No. 16 amends the law of evidence with respect to bankers' books on the lines of the English Bankers' Books Evidence Act, 1879.

Tea Cess.—Ordinance No. 22 imposes a cess on tea manufactured in the Colony. The proceeds of such cess will be used to promote the welfare of the tea industry.

Plant Protection.—Ordinance No. 24 makes better provision for the prevention of the introduction and spread of disease destructive to plants.

Mombasa Shop Assistants' Employment.—Ordinance No. 25 regulates the hours of employment of shop assistants in Mombasa. Special legislation is necessary as the Shop Hours Ordinance, 1925, which has been applied to various centres in the Colony, is unsuitable for application to Mombasa.

Trade Unions.—Ordinance No. 28 provides for the registration of trade unions in the Colony.

Resident Labourers.—Ordinance No. 30 makes better provision for regulating the employment of resident labourers on farms.

Shop Hours.—Ordinance No. 31 makes certain amendments to the principal Ordinance which experience has shown to be desirable. The more important of these amendments is that made by s. 2 which provides, *inter alia*, that, subject to certain exceptions, a shop assistant shall not be required to work for more than nine hours, inclusive of meals, on any

one day or for more than fifty hours in any one week or on any weekly half-holiday, Sunday or public holiday.

Coffee Industry.—Ordinance No. 35 (*a*) gives effect to the decision to withdraw trade representation from the Coffee Board; (*b*) provides for the transfer of a coffee plantation licence where a plantation is transferred during the validity of the licence; and (*c*) provides for the registration of all coffee millers.

King's African Rifles Reserve of Officers.—Ordinance No. 37 provides that all officers of the Reserve of Officers, irrespective of their experience, shall, when called out for active service, receive the King's African Rifles rates of pay for officers of their rank in the King's African Rifles.

Game.—Ordinance No. 38 consolidates and amends the law relating to game. Game birds have been included in the Ordinance instead of being governed by a separate Ordinance as was the case before the enactment of the Ordinance.

Medical Practitioners and Dentists.—Ordinance No. 39 (*a*) defines "dentistry" for the purposes of the principal Ordinance; and (*b*) provides for certain exemptions in respect of practising dentistry.

Transport Licensing.—Ordinance No. 40 provides for the co-ordination and control of transport, other than air transport in the Colony.

Mineral Oil.—Ordinance No. 42 declares specifically that all deposits of mineral oil, save where such mineral oil is expressly dedicated by the Crown in any conveyance, grant, lease or licence or in any certificate issued under the Land Titles Ordinance, has always been, and remains, vested in the Crown.

2. NYASALAND.

[*Contributed by* H. G. Morgan, Esq., *Attorney-General.*]

The following is a résumé of the more important legislation enacted during the year 1937:

Lunacy.—Ordinance No. 1 empowers the Governor to order the removal abroad of non-native lunatics if proper facilities for their care cannot be provided within the Protectorate.

Mining.—Ordinance No. 2 provides for the amendment and consolidation of the law as to mines and minerals.

Fugitive Offenders (Pursuit).—Ordinance No. 5 authorizes in certain circumstances the police of adjoining Territories to pursue and arrest within certain areas of the Protectorate fugitives from such Territories.

Bills of Sale Registration.—Ordinance No. 6 extends the time for the filing and registration of bills of sale from seven to fourteen days of the making and execution, respectively.

King's African Rifles.—Ordinance No. 25 of 1936 did not receive the Governor's assent until June 5, 1937. It was introduced to ensure uniformity in the establishment and government of the King's African Rifles throughout the territories where the force is serving.

Ordinance No. 15 grants to a soldier who has been awarded the Long Service and Good Conduct Medal a gratuity of £5 on discharge.

Income Tax.—Ordinance No. 11 enlarges the scope of the Ordinance so as to permit of a tax being levied on profits made by sales outside the Protectorate of tobacco leaf, seed cotton or other commodities which have received some form of technical treatment prior to export.

Tobacco.—Ordinance No. 16 provides for the appointment and in-

corporation of a Native Tobacco Board and enables it to hold property in its own name and do all such acts as bodies corporate may by law perform.

The Tobacco Marketing Ordinance No. 17 provides for the establishment of a Tobacco Control Board, the licensing of auction floors, and the control of the sale and export of tobacco. The essential provisions of the Flue-cured Tobacco Marketing Ordinance, 1936, are incorporated in this Ordinance and that Ordinance repealed.

Criminal Procedure Code.—Government Notice No. 8 appoints certain native police officers Public Prosecutors before Subordinate Courts.

Nyasaland Protectorate (Mineral Rights) Order in Council, 1936.—Government Notice No. 9 regularizes the position of the British South Africa Company and its alienees in so far as their rights to minerals and lands in the Protectorate are concerned.

Air Navigation Directions, 1937.—Government Notices No. 14 and 74 make rules regarding the registration of aircraft, licensing of personnel and aerodromes and matters incidental thereto.

Dangerous Drugs.—Government Notice No. 65 controls the importation into the Protectorate of narcotic drugs.

3. SOMALILAND PROTECTORATE.

[*Contributed by* RUPERT HAIG, ESQ., *Legal Secretary*.]

During 1937 thirty Ordinances were enacted. Of these the following are the more important measures :

Attachment of Live-stock in Political Cases.—The Political Cases (Attachment of Live-stock) Ordinance, No. 3, empowers the Governor to order the attachment of stock of the members of a tribe or sub-tribe in cases where such members are by native law and custom liable to satisfy the order of a court and such order has not been satisfied within three months. Power is also conferred upon the Governor to order the attachment of live-stock before judgment in cases where a District Court has reason to believe that such members of a tribe or sub-tribe are about to remove live-stock from the Protectorate in order to defeat the ends of justice.

Native Marriage.—The Natives' Betrothal and Marriage (Amendment) Ordinance, No. 4, exempts from the penalties prescribed by s. 2 of the principal Ordinance a man who goes through a ceremony of marriage with a woman holding a divorce certificate granted by a Kadi employed by the Government, and also vests in the District Officer the discretion to defer, pending further inquiry, an application by a woman to register her refusal of a betrothal in cases where the District Officer is not satisfied that such application is made voluntarily.

Refugees.—The Control of Fugitive Belligerents Ordinance, No. 6, makes provision for the establishment and control of internment camps for members or followers of the Ethiopian or Italian troops who, during or after the period of hostilities between Ethiopia and Italy, took refuge in the Protectorate.

Ports.—Ordinance No. 7 effects various minor amendments in the Ports Ordinance (c. 51) rendered necessary by changing conditions in the port of Berbera. It also prescribes a licence for firms carrying on a lighterage business.

King's African Rifles.—The King's African Rifles Reserve Forces Ordinance, No. 10, makes provision for the establishment of a reserve

force normally to consist of men who have completed a period of service in the King's African Rifles.

Alcoholic Liquors.—Ordinance No. 11 makes provision generally for the sale of alcoholic liquors and subject to certain exceptions prohibits the possession of alcoholic liquor by natives. The Ordinance repeals earlier enactments governing the subject.

Criminal Law.—The Indian Penal Code (Modification) Ordinance, No. 12, amends the law applicable to the Protectorate so as to conform with the provisions of the International Convention for the Suppression of Counterfeiting Currency.

Motor Traffic.—The Traffic Ordinance, No. 13, repeals all earlier enactments governing motor traffic. S. 31 provides that as from March 17, 1938, the Ordinance shall be deemed to be qualified by the provisions of the International Convention relative to Motor Traffic signed at Paris, on April 24, 1926.

Customs.—Ordinance No. 15 constitutes a complete revision of the Customs Law repealing all earlier enactments.

Courts.—The Kadis' Courts Ordinance, No. 17, provides for the establishment and jurisdiction of Kadis' Courts, the supervision of such Courts by the District Courts and Protectorate Court, and prescribes the procedure governing appeals from Kadis' Courts and the execution of their orders.

Coinage.—Ordinance No. 25 makes provision for coinage in the Protectorate taking the place of the Somaliland Coinage Order, 1917. That Order was repealed by the Somaliland Coinage Order, 1937, under which power is conferred upon the Governor to effect legislation on currency matters by Ordinance. The Ordinance follows, in the main, the provisions of the Somaliland Coinage Order, 1917, and adds to the coins which are legal tender in the Protectorate the eight anna, four anna and two anna nickel coins of British India.

4. TANGANYIKA TERRITORY.

[*Contributed by* G. W. McL. Henderson, Esq., *Crown Counsel.*]

Ordinances passed—32.

During the year 1937 thirty-two Ordinances were enacted. Of these sixteen were amending Ordinances and six were Ordinances in replacement of existing legislation. The following are the more important enactments:

Pharmacy and Poisons.—No. 1 repeals the Drugs and Poisons Ordinance (c. 89), which was no longer considered as giving adequate protection to the public. The Ordinance is based upon the Pharmacy and Poisons Act, 1933 (Imperial), and adapts the provisions of that Act to the conditions obtaining in the Territory. No one is now allowed to carry on the business of a pharmacist or to prepare or dispense drugs or medicines or sell poisons unless registered, with an exception that certain persons may be licensed to sell certain poisons. Registration is confined to persons having specified qualifications and is controlled by a board appointed by the Governor. The provisions of the Ordinance with regard to poisons follow the Imperial enactment.

Children and Young Persons.—No. 3 makes provision for the trial and punishment of youthful offenders in the light of experience gained in the

United Kingdom and ensures that so far as is possible measures are taken to reform the youthful offender rather than merely to punish him. The Ordinance prevents youthful offenders being brought into association with old offenders during their trial and ensures that the proceedings in court are such as are most likely to enable the court to arrive at a proper decision as to the nature of the offence and the offender and the most suitable means of dealing with him. No child under the age of twelve can be sentenced to imprisonment and persons between the ages of twelve and sixteen can be imprisoned only if none of the alternative measures appears suitable.

Monuments Preservation.—No. 4 replaces the Preservation of Archæological Objects Ordinance, 1929, and gives power to the Governor to protect by order any structure, etc., of archæological, historic or artistic interest and creates reserved areas for this purpose.

Plant Protection.—No. 9, which repeals the Plant Pest and Disease Ordinance (c. 77), is the outcome of a Report of a Conference on Co-ordination of Agricultural Research and Plant Protection held in 1934 and which was agreed to in principle by the Conference of East African Governors in 1935. Similar legislation exists in neighbouring territories.

Prisons.—No. 11 amends the Prisons Ordinance, 1933, by abolishing the distinction between Asiatic and African officers, provides a revised gratuity scale of certain officers and allows the revision of leave conditions of subordinate officers by rule. The provisions regarding reciprocal arrangements with neighbouring territories relating to the release of prisoners on licence are also amended.

Cotton.—No. 12 replaces the Cotton Ordinance (c. 80) and was rendered necessary by the rapid development of the industry particularly in native-grown cotton. The Director of Agriculture has been given intimate control over cultivation and harvesting as well as a power to make orders regarding the grading of cotton and the buying and selling of particular grades. Buyers of raw native-grown cotton must be registered and licensed and also the places at which, and the manner in which, transactions are carried out are regulated. Provision is also made regarding the ginning and baling of cotton, and the establishment of a Cotton Advisory Board.

Lunacy.—No. 13 replaces the Indian law dealing with people of unsound mind and their property which was applied to the Territory by the Application of Laws Ordinance (c. 2). It provides for the control of such people by order of the court, and the management and administration of the estates of those who are lawfully detained and also of those who, though able to look after themselves, are adjudged incapable of managing their affairs. Provision is also made for repatriation and the acceptance of lunatics found to be so by the laws of some other territory. The Governor has been given power to make rules for the establishment of mental homes for voluntary patients should the necessity arise.

Criminal Procedure Code.—The principal amendments in No. 15 contain provisions designed to allow of a more speedy hearing of an appeal of a person sentenced to death by a magistrate sitting in extended jurisdiction and enlarge the jurisdiction of first-class magistrates, to enable them to try certain offences.

Sisal.—The Sisal Board Ordinance, No. 19, gives statutory recognition to the Sisal Industry Board and provides for its constitution and functions.

Mining Loans.—No. 24 provides for the establishment of a Board for

the purpose of making advances of money up to a fixed maximum or supplying machinery and plant on the hire-purchase system to lessees of mining property, subject in the case of a money loan to a first mortgage on the property and in the case of machinery and plant to a first charge. Further provisions regulate the conditions and terms of such advances and supplies.

Goldsmiths and Silversmiths.—No. 25 makes provision for the control of these businesses by means of licences and the keeping of books of accounts liable to inspection.

Police.—No. 27 replaces the Police Ordinance, 1933. The more important changes are the abolition of the terms " European," " Asiatic," and " African," the ability to make regulations governing the leave conditions of certain members, the abolition of corporal punishment except in the case of bugler boys, a revised scale of gratuity for certain members and the immediate appointment of special constables by a District Officer in cases of emergency.

Shipping.—No. 28 implements the provisions of the Merchant Shipping Acts in their application to the Territory, particularly with regard to load lines and other matters affected by the International Load Line Convention. It also gives effect to the recommendations of the various International Labour Conventions relating to the employment of children and young persons at sea, and provision has been made for the repatriation of seamen.

5. UGANDA.

[*Contributed by* M. RALPH HONE, ESQ., K.C., M.C., *Attorney-General.*]

Twenty-nine Ordinances were enacted during 1937, the more important of which were :

Shop Hours.—Ordinance No. 1 regulates the hours of opening of shops and the weekly period of employment of shop-assistants on lines very similar to those adopted in the United Kingdom.

Excise Duties.—Ordinance No. 2 re-enacts, in more satisfactory form, the legislation relating to the payment of excise duties and the issue of licences for the manufacture within the Protectorate of excisable goods.

Penal Code.—Ordinance No. 3 introduces a number of improvements in the Penal Code and, in particular, brings up-to-date the law relating to sedition and the possession and publication of seditious literature.

United Kingdom Designs (Protection).—Ordinance No. 6 repeals the system of local registration of designs and substitutes protection in Uganda for all designs registered in the United Kingdom.

Traffic.—Ordinance No. 8 is a comprehensive measure dealing in the fullest possible manner with the various problems connected with the movement of traffic on the roads and, in particular, provides, by a system of inspection and licensing, for a very strict control of motor public service vehicles.

Timber Industry.—Ordinance No. 9 confers power on the Governor to impose a cess on all timber felled, with the object of providing a fund to be expended on the development and rationalization of the timber trade with special regard to the due seasoning of timber intended for export.

Plant Protection.—Ordinance No. 11 gives extensive powers to make rules and orders as may be necessary for the adequate protection of plants from attacks of plant pests and diseases.

Public Trustee.—Ordinance No. 12 sets up the office of Public Trustee

and confers the requisite powers for the proper carrying out of the duties annexed to the appointment.

Public Health.—Ordinance No. 14 amends the Ordinance enacted in 1935 in various directions. It makes more extensive provision for the enactment of satisfactory building rules, it confers appropriate rights of appeal on members of public in regard to the exercise of the powers given by the principal Ordinance, and finally deals in detailed manner with the general regulation of drainage, the installation of public sewers and the establishment of sewage disposal works. Under the powers conferred by this amending Ordinance, the Drainage and Sanitation Rules dealing with the technical aspect of drain and sewer installations were promulgated.

Prisons.—Ordinance No. 17 deals in particular with the release of long-term convicts on licence and provides for reciprocal arrangements with neighbouring territories in cases where convicts are released from Uganda with permission to reside in such territories while on licence.

Trade Unions.—Ordinance No. 18 legalizes the formation of trade unions and provides for their registration and control.

Civil Debts (Summary Recovery).—Ordinance No. 20 provides the necessary machinery for the recovery of debts declared by statute to be summarily recoverable as civil debts.

Uganda King George the Fifth Memorial Fund (Incorporation of Trustees).—Ordinance No. 25 contains the terms of the trust deed of the Uganda King George the Fifth Memorial Fund and sets up the trustees as a corporate body.

Inland Water Transport (Control).—Ordinance No. 28 provides for the control of all forms of inland water transport carrying goods for profit or reward by a system of licensing.

Mining.—Ordinance No. 29 amends the principal Ordinance in many minor directions as a result of experience gained in the working of the mining law.

6. ZANZIBAR.

[*Contributed by* A. HALLAM ROBERTS, ESQ., *Crown Counsel.*]

During the year twenty-eight Decrees were passed, of which two were repeal Decrees. The following is a list of the more important of these measures and contains a summary of the objects and reasons therefor :

Leprosy.—The repeal of the Leprosy Decree (c. 63) effected by Decree No. 1 was actuated by the desire to abandon the compulsory powers of segregation and treatment of lepers, for which that Decree provided, in favour of a voluntary system which had already been subjected to experiment and proved satisfactory in the Protectorate.

Lunacy.—This amending Decree, No. 2, provides for the removal of lunatics outside the Protectorate, for which there was no provision in the principal Decree (c. 62) (other than criminal lunatics and lunatic criminals who by virtue of Art. 27 of the Zanzibar Order in Council, 1924, can be so removed under the Colonial Prisoners Removal Act, 1884). As there is no asylum within the Protectorate suitable for the reception of lunatics whose natural domicile is in more temperate regions, and, moreover, occasions may arise when the relatives of a lunatic certified in the Protectorate may wish to have him sent to a proper institution within their reach and be willing to bear the expense of his maintenance and removal, the absence of power to effect such removal might at any time prove embarrassing.

Plant Protection.—Decree No. 9 has been enacted as a result of a suggestion made at the Conference of East African Governors held in 1935, that legislation on the subject of plant protection should be drafted for ultimate adoption by the Governments represented at the Conference, which agreed in principle with the report of the Conference on Co-ordination of Agricultural Research and Plant Protection held at Amani in 1934. The text of the Decree is modelled on the provisions of the Tanganyika Territory Plant Protection Ordinance, No. 9 of 1937.

Clove (Purchase and Exportation).—Decree No. 15 was enacted to give effect to the recommendations of Mr. B. H. Binder contained in his report on the Zanzibar Clove Industry which was issued in 1936.

The main provisions of the Decree are concerned with the licensing of persons to conduct the business of buying cloves in the Protectorate and the preliminary stages of exportation abroad. The power to purchase cloves within the Protectorate and to deliver them to a carrier for exportation abroad has been restricted to the licensee, but freedom has been reserved to other persons to contract with overseas purchasers for the sale of cloves which may be bought from the licensee and consigned by the licensee to such purchasers under the exporter's directions. In pursuance of the recommendations of the report it is intended in the first instance to restrict the issue of licences to one in favour of the Clove Growers Association, but power has been reserved in the Decree to license other persons or bodies as may in the future be found necessary or desirable.

Native Hut Tax.—The operation of the Native Hut Tax Decree (c. 98), which was introduced in 1933 with the object of obtaining from the owners of the native huts situated in towns a contribution towards the municipal services and to discourage overcrowding, has not proved satisfactory in practice in either respect. C. 98 has, in consequence, been repealed by No. 20 with effect from January 1, 1938.

Ports.—Decree No. 25 amends s. 33 of the Ports Decree (c. 74) by including power to Executive Council to make rules for the protection against accidents of workers engaged in handling cargo and coaling, and thus to enable effect to be given in the Protectorate to the provisions of the revised draft of the International Labour Convention in that behalf.

United Kingdom Designs (Protection).—Decree No. 27 was enacted to replace the present system of registration of designs dealt with in the Patents and Designs Decree (c. 90) under which registration in the Protectorate was dependent upon registration in England, and certain fees were payable for local registration.

The Decree was introduced at the instance of the Secretary of State, who pointed out that c. 90 did not afford sufficient protection to designs registered in the United Kingdom, especially where textile piece goods were concerned, inasmuch as even if the fees for local registration were reduced to an absolute minimum, textile trades would not be able to register more than a fraction of their designs. To overcome this difficulty the present Decree has eliminated local registration altogether and now confers, without additional fee, protection within the Protectorate upon all designs which have been registered in the United Kingdom.

Lighting Control.—Decree No. 28 has been enacted at the instance of the Secretary of State to enable Rules to be made to provide for effective " blackouts " on occasions of emergency or public danger or by way of experiment or practice. With slight modifications, it follows the model based on the Hong Kong Lighting Control Ordinance, 1936.

7. ANGLO-EGYPTIAN SUDAN.

[*Contributed by the* Hon Cecil H. A. Bennett, *Advocate-General.*]

The Ordinances passed during the year 1937 are as undermentioned :

Jebel Aulia Dam Compensation.—Ordinance No. 1, amended by No. 8, provides for the award and payment of compensation in kind and in cash in respect of damages to property caused or likely to be caused by the raising of the level of the White Nile River consequent upon the construction of the Jebel Aulia Dam.

Harbours and Shipping.—Ordinance No. 3, which amends the Harbours and Shipping Ordinance, 1916, deals with matters relating to vessels, when berthing, mooring or working in Port Sudan Harbour, pilotage, handling, storage, import, export and warehousing of goods.

Preservation of Wild Animals.—Ordinances Nos. 4 and 13, which amend the Preservation of Wild Animals Ordinance, 1935, add ibis, other than bald-headed, which is already protected, saddlebill stork, white stork and woolly-necked stork to the specially protected animals in Schedule II.

Public Trustee.—Ordinance No. 5 provides for the appointment of a Public Trustee and defines the powers and duties of such office. The protection of the interests of minor children in the estates of deceased persons and other property is one of the main objects of the office of the Public Trustee.

Marine Fisheries.—Ordinance No. 6, which regulates the fishing within the territorial waters of the Sudan, provides for the licensing of fishing craft, and permits to fishermen, and gives power to proclaim closed areas for the conservation and development of fisheries.

Local Government.—Ordinances Nos. 10, 11 and 12 provide for the order and good government of municipalities, townships and rural areas in the Sudan respectively by Local Authorities and lay down the powers and duties of such Authorities.

XI. SOUTH ATLANTIC.

1. BRITISH GUIANA.

[*Contributed by* J. H. B. Nihill, Esq., K.C., *Attorney-General.*]

There were thirty-five public Ordinances passed during the year 1937. The principal of these were :

Export of Timber.—Ordinance No. 1 will prevent, by a system of inspection before export by properly qualified persons, the export of timber of so poor a quality as might be calculated to harm the reputation of the Colony's timbers in world markets. Its provisions are applicable only to sawn greenheart, sawn crabwood, sawn mora and sawn morakubea when consigned for export to ports in United Kingdom, Europe, the United States or Canada, and to all barrel shooks or staves of any kind of timber when consigned to Barbados.

Sea Defence (Rating Removal) and Sugar (Temporary) Excise Duty.—Ordinance No. 4 provides that all expenditure on sea defences should be a Colony charge instead of being recovered by a rate levied on certain areas mainly occupied by sugar estates. As a consequence of this enactment the Sugar (Temporary) Excise Duty (Amendment) Ordinance (No. 5)

was passed to raise the temporary excise duty on sugar by 15 cents per 100 pounds weight of sugar. This tax represents an increased contribution to general revenue by the sugar industry in return for the release from sea defence rates.

Summary Jurisdiction (Offences).—Ordinance No. 6 amends the Summary Jurisdiction (Offences) Ordinance, c. 13, in the following particulars: by s. 2 a court of summary jurisdiction may now in all cases award consecutive sentences of imprisonment; by s. 4 the offence of unlawful possession is restricted to cases of actual possession, and excludes past possession; by s. 5 the time within which proceedings against a fraudulent importer may be instituted is extended to facilitate the obtaining of evidence abroad; by s. 6 "towing," *i.e.* the carrying of a passenger on a bicycle not specially constructed for the purpose, is made an offence in certain municipal areas.

Colonization Fund.—Ordinance No. 7 enables a portion of the Colonization Fund, a fund built up by the levy of certain taxes under various Customs Duties Ordinances, to be used for the promotion of agriculture or any other industry and generally for the improvement of social conditions in the Colony. The original purpose of the Fund, namely, the financing of future unindentured immigration, is safeguarded by the creation of a reserve fund and provision is also made for its adequate maintenance.

Patents and Designs.—Ordinance No. 9 consolidates the local law in regard to the registration of patents and designs. Copyright in designs registered in the United Kingdom will be recognized in the Colony without the necessity of local registration. As a consequence of this enactment ss. 1, 2, 3, 4, 6 and 7 of the Statute of Monopolies (21 Jac. 1, c. 3) have been made part of the law of the Colony by a resolution of the Legislative Council.

Dangerous Drugs.—Ordinance No. 10 repeals and re-enacts the law on the subject so as to give effect to the International Convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on July 13, 1931.

Summary Jurisdiction (Procedure).—Ordinance No. 11 amends the Summary Jurisdiction (Procedure) Ordinance, c. 14. It is primarily intended to effect a diminution in the number of cases committed to prison in default of payment of fines by making it obligatory for magistrates to give time in all cases (except in Maintenance and Bastardy Orders) where the payment of money is ordered as the punishment or part of the punishment for an offence.

Local Government.—Ordinance No. 12 effects changes in District Administration in the following particulars: (*a*) it transfers to District Commissioners all the powers and duties of the Inspector of Districts and certain of the powers and duties of the Secretary of the Local Government Board mainly with respect to the financial control of district moneys; (*b*) it authorizes District Commissioners to attend meetings of a Village Council or Country Authority, but not to vote thereat (s. 5); (*c*) it safeguards the tenure of office of an overseer or collector of rates by providing that he shall not be dismissed without the covering approval of the Local Government Board (s. 6); (*d*) it changes the financial year of village and country districts from the twelve months ending March 31 to the calendar year; (*e*) it enables process for the recovery of rates to be taken more expeditiously by the Secretary of the Local Government Board or

the collector of rates in cases where local authorities show delay or default.

Income Tax.—Ordinance No. 13 amends the Income Tax Ordinance, c. 38, to extend the operation of s. 34 (deduction of tax on mortgage and debenture interest payable to a person not resident in the Colony) so as to apply the principle of deduction at source to any interest payable to a non-resident, not only as at present to mortgage or debenture interest, and raises the percentage tax deduction from 8 cents to 12½ cents on every dollar. Temporary bank loans and trading accounts are exempted.

Government Currency Notes.—Ordinance No. 14 repeals the existing law on the subject and re-enacts it in a form which enables the Colony's currency note system to be established on the basis known as the " Sterling exchange standard." The essential change effected in the law is the substitution, for the present issue of notes, of new notes which will be inscribed as " legal tender for the payment of any amount " instead of being in the form of a promise to pay. The new notes will not be issuable and redeemable in exchange for coin but in exchange for the receipt or payment respectively of sterling in London.

Criminal Law.—Ordinance No. 15 amends the Summary Jurisdiction (Magistrates) Ordinance, c. 9, the Summary Jurisdiction (Offences) Ordinance, c. 13, and the Criminal Law (Offences) Ordinance, c. 17, so as to give effect to the Convention for the suppression of Counterfeiting Currency, and generally to place foreign coinage in the same position as regards offences in connexion therewith as British coinage.

Legal Practitioners (Definition of Functions).—Ordinance No. 18 amends the Legal Practitioners (Definition of Functions) Ordinance, 1931 (No. 15 of 1931), to prohibit barristers who are appointed King's Counsel after May 31, 1937, from performing certain functions which in England could only be performed by a solicitor.

Sugar Quota.—Ordinance No. 19 was enacted to give effect to an International Agreement between the Governments of the principal sugar-producing consuming countries of the world whereby an orderly relationship should be established between the supply and demand for sugar in the world market.

Motor Vehicles Insurance (Third Party Risks).—Ordinance No. 22 applies to the Colony the principle of compulsory insurance against third party risks occasioned by the use of motor vehicles on public roads.

Post Office Savings Bank.—Ordinance No. 24 re-enacts so as to bring up to date the law on the subject.

Immovable Property Sale of Interests.—Ordinance No. 27 gives power to the Supreme Court to order a sale at public auction of immovable property held in joint ownership in undivided interests, where subdivision is impracticable by consent or otherwise.

Sugar Experiment Stations.—Ordinance No. 33 continues legislative provision for the control of Sugar Experiment Stations for a further period of five years from January 1, 1938.

2. BRITISH HONDURAS.

[*Contributed by* H. J. Hughes, Esq., *Acting Attorney-General.*]

Of the twenty Ordinances which were enacted in 1937, twelve effected minor amendments to existing legislation and four were connected with the budget. The remaining four Ordinances are:

Currency.—Ordinance No. 1 gives effect to a simple arrangement of the usual exchange type under which the Currency Commissioners issue and redeem notes in exchange for dollars in New York, through an agent to be appointed for the purpose. Part of the Note Security Fund may be held temporarily by the Commissioners in Silver Coin until such time as it can be put back into circulation or otherwise disposed of.

The Ordinance is based on a draft furnished by the Secretary of State.

Coinage.—Ordinance No. 2 makes Currency Notes the sole unlimited legal tender of this Colony; before the passing of this Ordinance the United States Gold Dollar was the "standard coin" of the Colony.

The Ordinance is based on a draft furnished by the Secretary of State.

Charitable Lotteries.—Ordinance No. 6, a private measure, permits lotteries or sweepstakes to be held by The British Honduras Charitable Trusts, Ltd., not for gain, but for charitable and philanthropic purposes.

Petroleum.—Ordinance No. 17 vests in the Crown the property in petroleum and natural gas within this Colony and makes provision with respect to the searching and boring for and getting of petroleum and natural gas.

3. FALKLAND ISLANDS.

Ordinances passed—10.

"Discovery."—Ordinance No. 1 empowers the Governor to dispose of the Royal Research Ship *Discovery* either by deed of gift or by bill of sale for a nominal consideration to any person or body of persons inside or outside the Colony.

Workmen's Compensation.—Ordinance No. 4 provides for the payment of compensation to workmen for injuries suffered in the course of their employment.

Pensions.—Ordinance No. 5 provides for the grant of pensions, gratuities, and other allowances to persons who have been in the public service of the Colony. An officer may be required by the Governor in Council to retire from the service at any time after he attains the age of fifty-five years, or in special cases, with the approval of the Secretary of State, at any time after he attains the age of fifty. The maximum pension that may be granted is two-thirds of the highest pensionable emoluments drawn by an officer at any time in the course of his service in the Colony. The Ordinance also provides for a gratuity to his estate of not more than one year's pensionable emoluments where an officer dies in the service. It also provides for pensions to dependants when an officer is killed on duty.

Provident Fund.—Ordinance No. 6 establishes a provident fund for certain non-pensionable employees of the Government. "Non-pensionable employees" are: (*a*) holders of non-pensionable posts included in the approved Estimates receiving a salary of not less than £100 per annum, and (*b*) all non-pensionable government employees paid from votes under "other charges" who have been continuously employed by Government for a period of not less than one year and who are in receipt of wages at a rate of not less than £100 per annum. The Ordinance provides for a compulsory deposit each month of one-twentieth of the monthly salary, such deposit being deducted by the Treasurer from the

depositor's salary. Voluntary deposits may be made of 5*s.* or any multiple thereof to an amount not exceeding £25 in any one year or £150 in all. On December 31 in each year every depositor's account shall be provisionally credited by the Treasurer with a sum equal to the compulsory deposits made by him during the preceding twelve months ; these sums are called bonuses. Interest is credited separately on compulsory deposits, voluntary deposits and bonuses at a rate fixed annually by the Governor in Council.

Public Health.—Ordinance No. 7 constitutes a board of health for the Colony. The members of the board are the Senior Medical Officer, as Chairman, the government medical officers and such other members, not exceeding five, appointed annually by the Governor in Council.

Export Duties.—Ordinance No. 8 fixes the rate of duty at 1*s.* 6*d.* for each barrel of 40 gallons on export of whale and seal oil during the 1937–8 whaling season and the 1938 sealing season.

Forgery.—Ordinance No. 9 extends to the Colony and Dependencies thereof the Forgery Act, 1913, of the Imperial Parliament, as modified by the Criminal Justice Act, 1925, and the Currency (Convention) Act, 1935.

Shipworkers' Protection.—Ordinance No. 10 gives effect to the International Labour Convention concerning protection against accidents of workers employed in loading or unloading ships.

4. ST. HELENA.

[*Contributed by* G. C. KITCHING, ESQ., *Government Secretary.*]

Nine Ordinances were enacted during the year 1937, of which the following are of interest :

Liquor Licensing.—No. 1 repeals the Ordinance of 1907 and provides for new classification of licences and reduction of fees.

Pharmacy and Poisons.—No. 2 introduces the registration and licensing of pharmacists and controls the sales of poisons in accordance with a Poisons List.

Dangerous Drugs.—No. 3 provides for control of the sale, importation and exportation of dangerous drugs in accordance with the Geneva Conventions Nos. 1 and 2.

Forestry.—No. 4 provides for the establishment of a Forestry Board to undertake schemes of afforestation and the declaration of Forest Reserves.

Factories.—No. 7 provides for the establishment of a Factories Board and a Factories Inspector and conveys power to the Governor in Council to legislate for the health and safety of workers and the prevention of accidents.

XII. THE WEST INDIES.

1. BAHAMAS.

[*Contributed by* GODFREY W. HIGGS, ESQ.]

Acts passed—23.

Although twenty-three Acts were passed during the period under review, that is to say, the year 1937, owing to a change in the usual date of the convening of the House of Assembly, these Acts represent the work of two different sessions of the Bahamas Legislature. It is now the practice to convene the House of Assembly in October, when it sits

through until January or February of the following year. Consequently, eleven of the twenty-three Acts passed in 1937 were the work of the session of the Legislature convened in 1936.

Swampy Areas.—The Reclamation and Drainage Act, c. 1, marks an important step on the part of the Government to remove or abate any swamp or areas of a similar nature, which are breeding places or harbourages for insects. Under this Act the Governor in Council is given power to declare any area within the Colony to be an area which is to be reclaimed. Provision is made for requiring an owner to fill in such an area, and upon failure to do so the Governor in Council has power to perform the reclamation work and charge the cost thereof against the owner. Upon failure to pay by the owner, such property may be sold or dealt with in accordance with certain provisions contained in the Act.

Agricultural and Marine Products.—The Agricultural and Marine Products Board Amendment Act, c. 2, gives the Agricultural and Marine Products Board certain powers to carry out experiments and researches for promoting agriculture and the breeding of live-stock and poultry. The Board is further empowered to protect the destruction of marine products of all kinds, and to issue licences to named persons, who alone can capture or kill any kind of marine product within certain areas of the waters of the Colony. This Act was passed in order to prohibit wanton destruction, and to limit the places where products may be gathered.

Hotel Assistance.—The Hotel Assistance Act, c. 3, was passed in consequence of the passage of the Hotels Repeal Act, 1936, which repealed so much of the Manufactories and Hotels Act as related to hotels. Under this latter Act, namely, the Manufactories and Hotels Act, persons were allowed to enter duty free certain machinery and equipment for the erection of hotels, and all furniture and fittings for use in hotels. The Legislature sought by the Hotel Assistance Act to allow three named hotels that were in the process of construction and alteration to continue to import duty free such materials as were deemed essential for the initial construction and equipment of these hotels.

Telephones.—By the Telephone Loan Act, c. 12, the Governor in Council was authorized to raise the sum of £25,000 locally, by the issue of debentures, for the purpose of installing a modern dial telephone system.

Electricity.—By the Electricity Loan Act, c. 13, the Governor in Council was authorized to raise the sum of £35,000 locally, by the issue of debentures, for the purpose of reconstructing and improving the electrical power system in New Providence.

Court Deposits.—The Court Deposits Act, c. 15, requires all court deposits to be paid over to the Treasurer of the Colony. Any such deposits which were entered in the books of the Registry at the coming into operation of the Act had to be paid to the Treasurer. Any such deposits remaining unclaimed for a period of six years revert to the Government absolutely. All court deposits received after the coming into operation of the Act and remaining unclaimed for twenty years also revert to the Government absolutely.

Criminal Procedure.—The Criminal Procedure Amendment Act, c. 16, provides machinery for police supervision of any person convicted twice of any offence punishable with imprisonment for a period of three years or upward. If the court sees fit at the time of sentencing such person it may require the prisoner to give monthly reports of himself, and notify

the police of any change in his residence for a period of five years from the date of expiration of his sentence.

Stowaways.—The Immigrants Amendment Act, c. 17, amends the Immigrants Act by giving wider powers for dealing with deserters and stowaways improperly being or remaining in the Colony.

Prisons.—The Prisons Amendment Act, c. 18, permits the Governor to release prisoners on parole or licence before their term of sentence is up.

Police.—The Police Officers Act, c. 20, creates three additional police officers, namely, a Superintendent of Police and two Assistant Superintendents for a period not exceeding three years each.

2. BARBADOS.

[*Contributed by* WILFRED K. FERGUSSON, ESQ., B.A., LL.B., *Legal Draftsman.*]

Sixty enactments were passed during the Legislative Session, 1937–8, of which fifty-four were passed in the year 1937. Of these the most important are as follows :

Master and Servant.—The effect of Act No. 17 amending the Master and Servant Act, 1891, is to remove the penal sections contained in the principal Act.

Commission of Inquiry.—Act No. 22 constitutes a Commission to inquire into and report on certain matters connected with the disturbed conditions prevailing in the Island in July 1937.

Pensions.—Act No. 26 authorizes the payment of pensions to certain persons employed in the public service of this Island. Under the provisions of this Act pensions may be paid to artisans, caretakers, cleaners, crews of harbour craft, district foremen, labourers and other public employees who are not members of the Civil Establishment.

Sugar-cane.—Act No. 31 provides for the taking of an annual sugar-cane census.

Judgments.—Act No. 34 makes provision for the enforcement in this Island of judgments given in foreign countries which accord reciprocal treatment to judgments given in this Island, for facilitating the enforcement in foreign countries of judgments given in this Island, and for other purposes in connexion with the matters aforesaid.

Shops.—Act No. 44 provides for seats being supplied for the use of shop assistants.

General Assembly.—Act No. 47, amending the Representation of the People Act, 1901, came into operation on January 27, 1938, and it permits of the General Assembly of this Island being or continuing in force for a period not exceeding two years at any one time instead of one year, as has previously been the case.

Old Age Pensions.—Act No. 48 provides for the payment on certain conditions of old age pensions at a maximum rate of 1*s.* 6*d.* per week to persons who have attained the age of seventy years and whose means, as calculated under the provisions of the Act, do not exceed 4*s.* per week.

Molasses.—Act No. 50 regulates the production, marketing and export of Barbados Fancy Molasses. This Act makes permanent the provisions of a former temporary Act on the same lines enacted in each of the two preceding years.

Transport.—Act No. 52 establishes a Transport Board and consolidates

and amends the law relating to the registration, taxation and use of vehicles on highways and for other matters in connexion therewith.

Police.—Act No. 54, amending the Police Acts, makes provision for an increase in the numbers of the officers and other ranks of the police force and in the scale of salaries of the officers of the force.

3. JAMAICA.

[*Contributed by* J. E. R. STEPHENS, ESQ., *formerly a Resident Magistrate of Jamaica and subsequently Senior Puisne Judge of H.M. Supreme Court of Kenya Colony, and a Member of the Court of Appeal for Eastern Africa.*]

Among the Statutes of general importance passed by the Legislative Council of Jamaica during the year 1937 are the following:

Currency.—By Law No. 9 Government Currency Notes under it are made legal tender for the payment of any amount. A person found guilty of forging or counterfeiting or altering any Government Currency Note is liable to imprisonment with or without hard labour for ten years. Whoever without lawful authority or excuse (the proof whereof shall lie on the person accused) has in his possession, knowing the same to be forged, counterfeited or altered, any forged, counterfeited or altered Government Currency Note is liable to imprisonment with or without hard labour for any period not exceeding five years. The penalty for mutilating or perforating with holes any Note or stamping thereon or by attaching or affixing thereto anything in the nature or form of an advertisement is a fine not exceeding £10.

Law No. 27 relates to Currency, Coinage and Legal Tender, and provides that coins shall be legal tender in Jamaica for the payment of an amount not exceeding 1*s.*, but for no greater amount.

Slum Clearance.—Law No. 10 makes provision for the clearing or improvement of unhealthy areas, the repair or demolition of insanitary dwelling-houses and barracks and the housing of persons of the working classes.

Telegraph Control.—Law No. 14 provides that no person shall within the Colony or any of its dependencies deal in or sell, establish, maintain or use any telegraph or telephone apparatus, mechanism or contrivance of any nature without first obtaining a licence for the purpose.

Statute Law Revision.—Law No. 18 provides for the preparation of a Revised Edition of the Laws of Jamaica.

Criminal Law.—Law No. 23 amends the Criminal Law Amendment Law, 1872, and provides that whenever any circuit court has assigned counsel to defend any person charged with a capital offence there may be allowed to counsel a fee not exceeding £5 5*s.* The presiding judge, after the conclusion of the trial, may if he think fit, and the trial has lasted more than one day, certify that the case was of exceptional length or difficulty and thereafter the fee may be increased to such sum not exceeding £10 as he may direct; a further fee of £3 3*s.* for attendance on accused in prison; a further fee not exceeding £3 3*s.* for viewing the locality of the crime when such view is considered by the court necessary and proper; when sentence of death is pronounced by the court a further fee not exceeding £3 3*s.* for advice to the convicted person as to whether he has any ground for appeal or for drafting of all necessary documents where the convicted person decides to appeal. And counsel may be allowed,

subject to taxation thereof by the Registrar of the Supreme Court, travelling expenses actually and necessarily incurred and any other out-of-pocket expenses actually and reasonably incurred.

Venereal Disease.—Law No. 34 is a law to prevent the treatment of venereal disease otherwise than by duly registered medical practitioners, and to control the supply of remedies therefor.

Stamp Duties.—Law No. 36 relates to the stamping of documents such as foreign bills of exchange, certificates of admission of barristers and solicitors, marine insurance policies, letters or powers of attorney appointing proxy to vote, and bills of lading. Schedule B to the Act contains an alphabetical list of documents requiring to be stamped, and the duties thereon.

Shop Assistants.—Law No. 38 provides that no shop assistant shall be employed in a shop within the parish of Kingston or the urban or suburban districts before 8 a.m. or after 4 p.m. on any working day of the week other than Saturday, and on Saturday before 8 a.m. or after 6 p.m. On at least one day in each week a shop assistant shall not be employed after the hour of 2 p.m. The employer must provide proper seating accommodation behind the counters or in such other position that may be suitable for the use of all assistants when not actually engaged in selling, and such seats shall be in the proportion of not less than two seats to every three assistants. Every employer shall on each working day allow at any time between mid-day and 2 p.m. to each assistant employed by him an interval from work of at least three-quarters of an hour. No person under the age of fifteen shall be employed in or about any shop for a longer period than forty-two hours (including the interval provided for) in any week. Every employer must exhibit and keep exhibited in a conspicuous place in his shop a copy of this Law, under a penalty of £5 and in the case of a continuing offence to a penalty of £10 in respect of each day on which the offence continues after conviction. If an employer neglects to provide seating accommodation he is liable for a first offence to a penalty not exceeding £5, for a second offence £10, and for a third £20. If an employer fails to pay any shop assistant, or allows a shop to be open in contravention of the law, he is liable for the first offence to a penalty not exceeding £50 and in default of payment to imprisonment with or without hard labour for a term not exceeding four months, for a second offence to a penalty not exceeding £100 and in default of payment thereof to imprisonment for any term not exceeding six months, and for a third or subsequent offence to a penalty not exceeding £300 and in default of payment to imprisonment not exceeding twelve months.

Workmen's Compensation.—Law No. 39 provides for the payment of compensation to workmen for injuries suffered in the course of their employment.

Money-lending.—Law No. 40 empowers a court of law to reopen money-lending transactions and give relief.

Traffic on Roads.—Law No. 41 deals with the classification and registering of motor vehicles and with drivers' licences.

Sugar Industry.—Law No. 43 is a Law to control the Sugar Industry.

4. LEEWARD ISLANDS.

[*Contributed by the* HON. H. A. O'REILLY, *Attorney-General.*]

Thirty-two Federal Acts and eighty-eight Presidential Ordinances (Antigua 17, Dominica 24, Montserrat 14, St. Christopher-Nevis 19 and

the Virgin Islands 14) were passed during the year 1937. Of these enactments the most important were :

Delegation of Powers.—Act No. 2 gives the Governor power to delegate statutory powers conferred upon him.

Probates Resealing.—Act No. 10 enables probate and letters of administration granted in any part of His Majesty's Dominions (including protectorates and mandated territories) or by a British Court in a foreign country to be effective in the Colony on the resealing of the same.

Workmen's Compensation.—Act No. 11 provides for the payment of compensation to workmen for injuries suffered in the course of their employment.

Criminal Procedure.—Act No. 14 entitles persons triable on indictment, who confess their guilt, to a speedy trial.

Labour (Minimum Wage).—Act No. 21 makes provision for the fixing of a minimum wage whenever the Governor is satisfied that the wages for any occupation are unreasonably low.

Dangerous Drugs.—Act No. 23 repeals the Presidential Ordinances in respect of the control and external trade in dangerous drugs and makes provision in this Act for the law contained in such Ordinances.

Leprosy.—Act No. 27 makes better provision for the treatment, care and isolation of persons suffering from leprosy.

Medical.—Act No. 31 makes provision for the registration of medical practitioners, dentists, opticians and druggists and regulates the practice of medicine, surgery, dentistry, sight-testing and the sale of drugs. The Act repeals the Druggists Act and the Medical Consolidation Acts, 1915 and 1935.

Savings Bank.—Ordinances No. 3, Antigua, No. 22, Dominica, and No. 2, Virgin Islands, repeal legislation and consolidate the law into these Ordinances with respect to government savings banks. Provisions are respectively made for any loss incurred in the working of such savings banks out of the general revenue of the Presidency concerned.

Sugar Quotas.—Ordinance No. 16, Antigua, provides for the regulating in that Presidency of the production and disposal of sugar, and for the imposing of quotas in respect thereof.

5. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by the* Hon. Charles Claye Ross, M.A., *Attorney-General.*]

In the year 1937 twenty-two Ordinances were passed, of which the most important were the following :

Agricultural Loans.—No. 7 repeals existing legislation relating to the grant of loans for agricultural purposes and replaces it by an Ordinance which sets out the purposes for which loans may be applied and other provisions in connexion therewith.

Public Health.—No. 8 seeks to improve malaria control by allowing the Governor to proclaim certain districts to be " unhealthy areas " and thereupon permitting the Sanitary Authority to do anti-malaria work in such district without interference from landowners.

Probate.—No. 12 makes provision for the replacement of s. 12 (1) of the principal Ordinance by an enactment similar to s. 167 (1) of the Supreme Court of Judicature Act, 1925 (Great Britain) and the insertion

in the Ordinance of a new Part (Part II) to make special provision for small estates. These provisions are based on ss. 15–17 of the Wills and Probate Ordinance (Trinidad), but the maximum value of an estate to which this part of the Ordinance applies is fixed at £50.

Sugar Quota.—No. 13 implements the International Agreement between the various sugar-producing countries as regards the export of sugar from Grenada. The Bill is based on the Sugar Quota Ordinance, 1937 (British Guiana). The Ordinance restricts and regulates the export of sugar from the Colony by the allocation to local manufacturers of quotas for exportation.

Intestates' Estates.—No. 15 further amends the law relating to Intestate Succession, and brings it more in line with modern legislation by abolishing entailed estates.

District Boards.—No. 17 amends the District Boards Ordinance so as to enable a District Board, with the consent of the Governor in Council, to impose duties on every kind of commodity brought into or taken out of the District, and to repeal the provision whereby the total annual charge for interest and sinking fund in respect of any loans in existence at any one time shall not exceed one-fourth of the yearly income of a Board.

Carriacou Water Supply.—No. 20 abolishes water rates in Carriacou and substitutes a system whereby the landowner pays for water actually supplied.

Evidence.—No. 22 amends generally the Evidence Ordinance and provides *inter alia* for a confession to be made to or in the presence of the chief or inspector of police or if made to one member of the police force, in the presence of another, one of such members must be a N.C.O. not below the rank of corporal.

(ii) Saint Lucia.

[*Contributed by* J. E. M. Salmon, Esq.]

Ordinances passed—12.

Labour.—No. 3 amends the Labour (Minimum Wage) Ordinance, No. 3 of 1935, by providing for the appointment of inspectors and power of entry and inspection.

Police.—No. 10 provides for the deduction of 6*d.* a day from a constable's pay while he is in hospital, subject to the Governor's discretion to remit the deduction ; and to non-liability for deduction, if the illness has been caused by wounds received while in the execution of duty.

Public Health.—No. 7 amends the Dangerous Drugs Ordinance, No. 16 of 1926, to exclude preparations from Part III to give effect to any findings with respect to any drugs as communicated by the League of Nations.

Revenue.—No. 1 amends the Income-tax Ordinance, No. 8 of 1924, by increasing by 10 per cent. certain tax rates for the assessment year 1937.

No. 8, Lime Products Cess, imposes a cess on exported lime products as a contribution towards the cost of an entomological service in the Windward and Leeward Islands for investigating cotton and citrus pests. The Ordinance is to continue in force until £750 has been paid thereunder.

Savings Bank.—No. 11 amends and consolidates the law relating to the government savings bank. It has a Schedule of Rules. It replaces previous legislation on the subject.

(iii) Saint Vincent.

[*Contributed by* N. S. Nantin, Esq., *Acting Attorney-General.*]

The Legislation passed into law during 1937 to date included the undermentioned Ordinances of importance:

Emigrants' Protection.—Ordinance No. 11 amends and has the effect of consolidating the laws relating to emigration.

Employers and Servants.—Penal sanctions are abolished by Ordinance No. 16, which repeals the Masters and Servants Act, c. 73, and the Daily Labourers' Wages Payment Ordinance, c. 74.

Dangerous Drugs.—Ordinance No. 21 consolidates the law relating to the importation, exportation, sale and use of dangerous drugs in the Colony.

Labour (Minimum Wage).—Under Ordinance No. 27 provision is made for the appointment of a Labour Commissioner among other things.

Sugar Control.—Ordinance No. 28 regulates the manufacture of sugar in the Colony, the disposal of such sugar, the allocation to local manufacturers of quotas for exportation and for sale for local consumption and for other purposes connected therewith.

Education.—By Ordinance No. 29, which came into force on February 5, 1938, the laws relating to education are amended and consolidated.

Registration of Documents.—Under the system of registration introduced by Ordinance No. 30 all original documents, except probates, are kept in the Registry. In the case of probates, copies only are kept.

6. TRINIDAD AND TOBAGO.

[*Contributed by* E. Le Gendre, Esq., *Chief Clerk.*]

Twenty-five Ordinances were enacted during the year 1937, of which the following are the most important:

Promissory Oaths.—Ordinance No. 6 amends c. 78 and provides for the avoidance of repetition of the Oath of Allegiance on the demise of the Crown.

Stamp Duty.—Ordinance No. 8 re-enacts with amendments certain sections of c. 206 so as to conform to the obligations undertaken under an International Convention of June 7, 1930, relating to Bills of Exchange and Promissory Notes. The schedule of stamp duties as revised to date has been reproduced.

Motor Vehicles and Road Traffic.—Ordinance No. 10 amends Ordinance No. 42 of 1934 and provides for issuing driving permits and licences to holders of International certificates and driving permits under an International Convention relative to the international circulation of motor vehicles to which this Colony shall have adhered. It also fixes the periods during which drivers who are convicted of certain offences must be disqualified and authorizes the licensing authority to grant concessions to operate motor omnibuses in the Colony subject to the recommendations of the Trinidad Transport Board.

Sugar Quotas.—Ordinance No. 12 re-enacts with amendments the provisions of Ordinance No. 16 of 1936, in order to give effect locally to the International Agreement of May 6, 1937, relative to the production and marketing of sugar produced in countries within the Colonial Empire. It also limits the amount of sugar to be exported from the Colony by individual sugar manufacturers during the year 1938.

Cane-farming Control.—Ordinance No. 13 was enacted for the purpose of controlling the cane-farming industry in order to prevent the unauthorized extension by cane farmers of the acreage under sugar-canes, and also to ensure that cane farmers will share equally with sugar manufacturers in any benefits which may accrue.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* C. MANSEL REECE, ESQ., *Attorney-General.*]

Ordinances passed—8.

Pensions.—Ordinance No. 1 makes provision for the retirement of officers in certain circumstances at an age earlier than is provided for in the principal Ordinance on the subject of pensions, and makes the necessary amendments therefor throughout the principal Ordinance.

Alien Traders.—Two amending Ordinances on the subject of alien traders were enacted in 1937. The first (No. 3) to stop certain evasions of the principal Ordinance and to secure a better measure of control, and the second (No. 8) to set right a position created by the first amending Ordinance. In the first amending Ordinance the principal Ordinance had been amended, *inter alia*, so as to exempt all companies established in Gibraltar before the commencement of the Ordinance from the necessity of taking a licence. Such was not the real intention of the legislature and the second amending Ordinance therefore makes the necessary amendment.

Quarantine.—It was desired that the Embarkation Medical Officer should have the full powers of a Health Officer under the Quarantine Ordinance in dealing with Naval, Military and Air Force passengers and this amendment (No. 4) is consequent thereon.

Public Health.—This amendment (No. 5) is necessitated to correct the wording of Form No. 9 of the First Schedule to the Public Health Ordinance to make it clear that vaccination must be effected within three months from the date of the child's birth as is provided for in s. 163 of the principal Ordinance.

Revenue.—Ordinance No. 6 amends the principal Ordinance, giving effect to the policy of Government of requiring vessels staying in the harbour longer than thirty days to pay further duty for the privilege.

Clubs (Registration and Licensing).—S. 4 (3) of the principal Ordinance required of clubs registered in Gibraltar certain returns which are now considered by Government not always to be necessary, and accordingly provision is made in this amending Ordinance (No. 7) for exemption from these requirements in cases at the Governor's discretion.

2. CYPRUS.

[*Contributed by the* HON. L. LLOYD-BLOOD, M.C., K.C., *Attorney-General.*]

During the year 1937 thirty-seven Laws were enacted, some of the more important of which were the following:

Criminal Code.—Law No. 2 effects various amendments to the existing Code and incorporates the provisions of the Sentence of Death (Expectant Mothers) Act, 1931.

Cotton.—Law No. 21 regulates and controls the cultivation of cotton and the cotton industry in the Colony.

Co-operative Credit Societies.—Law No. 22 enables a co-operative credit society, with the approval of the Registrar of Co-operative Societies, to invest its funds in the shares of a co-operative society of which it may become a member.

Co-operative Societies.—Law No. 23 enables the formation and registration of societies consisting of co-operative societies or co-operative credit societies or of both as members.

Churches and Monasteries of the Autocephalous Greek-Orthodox Church of Cyprus.—Law No. 25 provides for the investigation of the affairs and for the auditing of the accounts of Churches and Monasteries in certain cases.

Public Bodies and Public Offices.—Law No. 28 provides that no persons other than British subjects shall be appointed to public bodies and public offices.

Trades and Industries.—Law No. 30 provides for the regulation of trades and industries in the interests of public health and public safety.

Election of Archbishop of Cyprus.—Law No. 34 provides that in all future elections to the Archiepiscopal Throne of the Autocephalous Greek-Orthodox Church of Cyprus the Archbishop-elect shall not be enthroned unless and until he has been approved by the Governor.

3. MALTA.

[*Contributed by* C. JOHN COLOMBOS, ESQ., LL.D.]

Ordinances passed—37.

Town Planning.—For the purpose of preventing unsightly buildings and inadequate roadways, Ordinance No. 6 sets up a Commission entrusted with the power of regulating the erection of new buildings or the reconstruction of existing ones and the opening and widening of streets in any area.

Notarial Profession.—Ordinance No. 11 amends the principal Act of 1927 by excluding from the exercise of a notary's profession all persons who are either advocates or legal procurators or are engaged in trade such as " a bank manager, merchant, certified broker or exchange agent." Persons " holding an office of profit under the Government " (other than the Director of the Public Registry or his Deputy) are also excluded.

Public Libraries.—Ordinance No. 14 adopts the English system by making it obligatory on the author of every work printed or published in Malta to supply free copies to the Royal Malta Library, the Gozo Public Library and to the Trustees of the British Museum in London. Its provisions, however, do not apply to periodicals and newspapers published in the Island.

Pilotage.—Ordinance No. 20 establishes a Pilotage Board for the purpose of supervising the licensing of pilots, the due exercise of their duties and the general regulation of pilotage within Maltese harbours and waters.

Trade Unions.—What really constitutes a " trade union " has given rise to such legal controversies in the past that Ordinance No. 22 purports to clarify the issue by supplying a ready definition of the term as " any association of persons of whom not less than 95 per cent. are workmen, voluntarily constituted and having for its statutory object the adjustment

of wages and the regulation of the relations between workmen and workmen or between workmen and employer and the conditions of employment generally." A trade union is, in addition, allowed to provide for the benefit of its members, but the sole fact of its being a benevolent society does not qualify it to be registered as a trade union within the meaning of the Ordinance.

Copyright and Patent Law.—Ordinance No. 31 (which amends the principal Ordinance of 1899) confers a distinct advantage on the owners of designs registered in the United Kingdom under the " Patents and Designs Acts, 1907 to 1932," by enacting that they are entitled " to enjoy in these islands the like privileges and rights as though the certificate of registration in the United Kingdom had been issued with an extension to these islands."

XIV. MIDDLE EAST.

1. PALESTINE.

[*Contributed by* RALPH WINDHAM, ESQ., *Legal Draftsman.*]

Of the forty-three Ordinances which were enacted in Palestine in 1937, the following were the more important :

Banks.—No. 27 tightens up the conditions under which banking operations may be conducted, and was necessitated by the unsatisfactory and unstable condition of many of the smaller banks in Palestine. It provides that a company shall not engage in banking business unless it has an authorized capital of £P.50,000 of which £P.25,000 must be paid-up in cash ; foreign companies may only operate if they have as paid-up capital a sum which the High Commissioner is satisfied is equivalent to £P.100,000. Power, however, is reserved to the High Commissioner to reduce these amounts in certain circumstances, and companies already established are given a time limit within which to make the necessary financial adjustments. This Ordinance also provides for the constitution of an Advisory Committee to advise on banking matters, and the High Commissioner, after consultation with the Advisory Committee and the Examiner of Banks, is empowered to issue orders restricting the activities of any banking company in other respects.

Companies.—No. 12 amends the Companies Ordinance (c. 22) by making provision enabling a co-operative society to convert itself into a company without the necessity of having to go into liquidation. The co-operative society is required to submit a scheme of reconstruction to the Registrar of Co-operative Societies, and thereafter, if the scheme is approved, to apply for registration as a company in the ordinary way. Further provisions define the extent to which members of the society before its conversion into a company are liable as contributories in the event of the company being wound up.

Explosives.—No. 22 makes provision for controlling the buying and selling of and otherwise dealing in explosive substances. It prohibits trading in explosive substances save under a licence issued by the District Commissioner, requires licensees to register all dealings in explosive substances, and authorizes the police to inspect their stock, and if necessary to order its removal to approved premises. The connexion between

this Ordinance and the bomb-throwing which has been such a regrettable feature of the disturbances in Palestine needs no stressing.

Fire Inquiry.—No. 7 provides for the holding of police inquiries into all outbreaks of fire in Palestine and for the judicial investigation of those occurring in circumstances of a suspicious nature. The Ordinance was necessitated by the increasing frequency of outbreaks of fire in suspicious circumstances. It follows closely the provisions of the Kenya Ordinance No. 23 of 1929.

Fisheries.—No. 6 repeals the Fisheries Ordinance (c. 59) and re-enacts its provisions with a number of additions and amendments. The power of the High Commissioner, or a duly authorized officer, to grant licences to take fish has been extended to include the granting, at his discretion, of exclusive licences and, in special circumstances only, the granting of special licences to persons operating vessels registered outside Palestine; he is also empowered to grant permits to land fish in Palestine (subject to conditions) in favour of persons operating vessels registered outside Palestine. The powers of the police, and other responsible officers, to enforce the provisions of the Ordinance have been extended. The power of the High Commissioner to make rules has been extended to include the regulation of the size of fishing nets. The penalty provisions have been added to, and fishing in Palestinian waters by vessels registered outside Palestine not having a special licence has been made an offence; the penalties for destroying fish by dynamite, and connected offences, have been made considerably more severe, in view of the prevalence and harmfulness of offences of this nature.

Immigration.—No. 33 effects a number of amendments to c. 67. It provides a more limited definition of "dependant" than that which is given in the principal Ordinance, in order to conform with the definition actually used as a basis of administration practice. It provides that the power to decide whether a person is unsuitable for admission to Palestine shall be vested in the Director, Department of Immigration, and not in the High Commissioner as hitherto. It prescribes severer and more elaborate penalty provisions in connexion with illegal immigration, including the forfeiture of vessels of less than 250 tons registered tonnage which are engaged therein. Finally, it gives effect to the policy of His Majesty's Government (following upon the report of the Palestine Royal Commission in July 1937) to the effect that a total Jewish immigration of 8,000 persons shall be permitted for the eight months' period from August 1937 to March 1938, provided that the economic absorptive capacity of the country is not exceeded.

Intoxicating Liquors.—No. 14 amends c. 71 by adding to the intoxicating liquors whose manufacture is licensed and controlled under that Ordinance a new liquor called "citrus wine," made from the fermented juice of fresh citrus fruit, in view of the establishment of an industry for its manufacture in Palestine.

Juvenile Offenders.—No. 2 repeals c. 156 and enacts more elaborate provisions with regard to the trial and detention of juvenile offenders and the restrictions on the punishments which may be imposed upon them. It provides for the appointment of a Principal Probation Officer and prescribes his powers and duties. It also empowers the court to make committal and other orders with regard to children and young persons in need of care and protection. This Ordinance was brought into force on September 22, 1938.

Merchant Shipping (Wireless Telegraphy).—No. 21 is a short enabling Ordinance giving power to the High Commissioner to make rules providing for the maintenance, upon ships of certain categories registered in Palestine, of adequate wireless telegraphy installation. It is based substantially on the English Merchant Shipping (Wireless Telegraphy) Act, 1919.

Pensions.—No. 10 introduces new provisions as to the age of retirement and eligibility for pension of officers of the Government of Palestine. Under the new provisions an officer becomes eligible for pension upon attaining the age of fifty years (and not fifty-five as hitherto), he may be required to retire at that age, and must retire at the age of fifty-five (and not sixty as hitherto), subject in special circumstances to a possible extension of service for a further period, which under the new provisions is not (as hitherto) limited to five years. Simultaneously with the enactment of this Ordinance rules were enacted, under which an officer who becomes subject to the new conditions as to age of retirement will be eligible for pension upon a basis of one six-hundredth of his pensionable emoluments for each completed month of service and not one seven-hundred-and-twentieth as hitherto. Officers in the service in the Government of Palestine on January 1, 1937, are given the option of remaining subject to the old conditions as to age of retirement and rate of pension.

Statute Law Revision.—No. 1 sets out in tabular form all amendments to the Ordinances of Palestine effected between the end of 1933 and the end of 1936. Its object is to bring up to date the Revised Edition of the Laws of Palestine, which was compiled so as to include legislation up to the end of 1933, and was brought into operation as the official text of the laws in January 1937. This Ordinance thus forms a supplement to the Revised Edition to cover the legislation of 1934, 1935 and 1936.

Water Supply.—No. 17 is designed to protect public domestic water supplies from interference by private persons. It empowers the High Commissioner to declare any area known or believed to contain underground water suitable for a domestic water supply to be a Public Water Supply Area, and makes it an offence for any person thereafter to construct or enlarge any well in such an area without a licence. The Ordinance applies primarily to public domestic water supplies under the control of Government, municipalities and local councils, but the High Commissioner is empowered to declare other such supplies to be public water supplies should he consider it necessary.

2. TRANS-JORDAN.

[*Contributed by* A. L. GARDINER, ESQ., *Judicial Adviser.*]

In 1937 laws for the first time commenced to bear numbers. Twenty-five laws were enacted during the year. Of these, twelve amended and three consolidated existing legislation. The most important laws enacted were :

Arab Legion.—No. 8 constitutes a reserve for the Arab Legion, which is the police force of Trans-Jordan.

Cinematograph Films.—No. 18 constitutes a board to censor cinematograph films prior to exhibition in Trans-Jordan.

Dangerous Drugs.—No. 4 applies the international conventions and repeals prior legislation on the matter.

Elementary Education.—No. 21 amends the Ottoman law, and imposes a municipal rate on the occupiers of houses and other premises, for the purposes of education.

Land Settlement.—The principal law had been enacted in 1933 and had been several times amended. No. 9 effects further changes and consolidates the law on the subject.

Penal Code.—No. 11 repeals a provision of the Ottoman Penal Code regarding attempted rape and makes this offence punishable under the general " attempt " article.

Road Transport.—The law of 1926 had become out of date and was repealed by No. 6, which, together with the regulations made under it, provide a Code for the matter of road transport.

Royal Family.—Law No. 24 lays down who are considered members of the Royal Family, and gives to His Highness the Amir, assisted by a Council, certain powers of control over such members.

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